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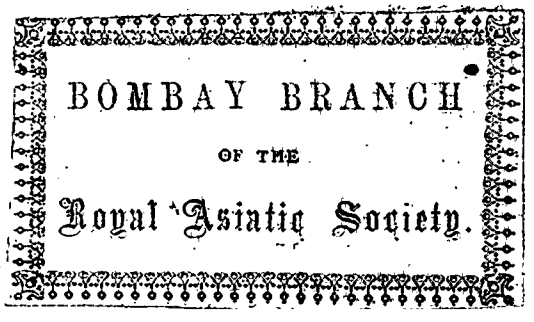

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PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR

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TITLES OF ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1898.

I. An Act to amend the Stage-Carriages Act, 1861.

II. „ to provide for the issue of currency notes on the security of gold received in England.

III. „ to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

IV. „ to amend the Indian Penal Code.

V. „ to consolidate and amend the law relating to Criminal Procedure.

VI. „ to consolidate and amend the law relating to the Post Office in India.

VII. „ to further amend the Petroleum Act, 1886.

VIII. „ to amend the Indian Paper Currency Act, 1898.

IX. „ to make better provision for the regulation of the importation of live-stock.

X. „ to make provision for certain matters connected with Insolvency.

XI. „ to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

XII. „ further to amend the Central Provinces Land-revenue Act, 1881.

XIII. „ to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma and other matters.

ACT No. I OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st January, 1898.)

An Act to amend the Stage-Carriages Act, 1861.

XVI of 1861.

WHEREAS it is expedient to amend the Stage-Carriages Act, 1861; It is hereby enacted as follows:—

Short title

1. This Act may be called the Stage-Carriages Act (1861) Amendment Act, 1898.

Repeal of proviso to section 1, Act XVI, 1861, and of section 2, Act XVI. 1876.

2. The proviso to section 1 of the Stage-Carriages Act, 1861, and section 2 of the Stage-Carriages Act (1861) Amendment Act, 1876, are hereby repealed.

XVI of 1861.

XVI of 1876.

Substitution of new paragraph in section 4, Act XVI, 1861.

3. The first paragraph of section 4 of the Stage-Carriages Act, 1861, is hereby repealed, and the following paragraph is substituted therefor, namely:—

XVI of 1861.

"For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees or such less sum as the Local Government may fix, and such license shall be in force for one year from the date thereof."

Addition of new section after section 20, Act XVI, 1861.

4. After section 20 of the said Act the following section shall be added, namely:—

Power to make rules.

"20A. (*1*) The Local Government may, by notification in the official Gazette, make rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

(2) In

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked;

(*b*) provide for the inspection of stage-carriages, and of the animals employed in drawing them; and

(*c*) regulate the number and length of the stages for which animals may be driven in stage-carriages, and the manner in which they shall be harnessed and yoked.

(*3*) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees."

Addition of sections after section 21, Act XVI, 1861.

5. After section 21 of the said Act the following sections shall be added, namely:—

Extent of Act.

"22. This Act, as amended by subsequent Acts, extends to the whole of British India; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.

Power to Local Government to exempt.

23. The Local Government may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act."

ACT No. II OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st January, 1898.)

An Act to provide for the issue of currency notes on the security of gold received in England.

WHEREAS it is expedient to provide for the issue of currency notes on the security of gold received in England; It is hereby enacted as follows:—

Short title commencement and duration.

1. (*1*) This Act may be called the Indian Paper Currency Act, 1898.

(*2*) It shall come into force at once; and

(*3*) It shall remain in force for six months from its commencement, and no longer.

Addition of new section after section 13, Act XX of 1882. Issue of notes against gold received in England.

2. After section 13 of the Indian Paper Currency Act, 1882, the following section shall be added, namely:— XX of 1882.

"13A. The Governor General in Council may, from time to time, by an order notified in the Gazette of India, direct that currency notes shall be issued at such offices of issue as are named in the order to an amount equal to the value of gold held by the Secretary of State for India at the rate, and subject to the conditions, fixed by that order:

Provided that—

(*1*) the power conferred by this section shall not be exercised unless the Secretary of State for India shall consent to hold in gold coin or gold bullion what he shall determine to be

be equivalent in value to the notes so issued, as a reserve to secure the payment of such notes, until he shall transmit the same, or what he shall determine to be equivalent to the same, in gold coin or gold bullion to India, or until the Government of India shall appropriate and set apart in India, as a part of the currency reserve under section 19, an amount of coin of the Government of India equal in value to such notes;

(*2*) gold coin or gold bullion so remitted shall be deemed to be received, within the meaning of section 19, when it is received in India by the Governor General in Council; and

(*3*) gold coin or gold bullion so retained shall, until its arrival in India, be distinguished from other gold coin or gold bullion in the abstract account published under section 27."

ACT No. III OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 4th February, 1898.*)

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Lepers Act, 1898.

(*2*) It extends to the whole of British India, inclusive of Upper Burma, British Baluchistan, the Santal Parganas and the Pargana of Spiti; but

(*3*) It shall not come into force in any part thereof until the Local Government, as hereinafter provided, has declared it applicable thereto.

(*4*) The Local Government may, by notification in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration, and may in like manner amend or cancel any such notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "leper" means any person suffering from any variety of leprosy in whom the process of ulceration has commenced;

(*2*) "pauper

(*2*) "pauper leper" means a leper—

(*a*) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(*b*) who is at large without any ostensible means of subsistence;

(*3*) "leper asylum" means a leper asylum appointed under section 3;

(*4*) "Board" means a Board constituted under section 5; and

(*5*) "District Magistrate" includes a Chief Presidency Magistrate.

Appointment of leper asylums by Local Government.

3. The Local Government may, by notification in the official Gazette, appoint any place to be a leper asylum for the purposes of this Act and specify the local areas from which lepers may be sent to such asylum, and may, in like manner, alter or cancel any such notification.

Appointment of Inspectors of Lepers and Superintendents of Asylums.

4. Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer of the Government or other qualified Medical man to be an Inspector of Lepers and any person to be a Superintendent of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Constitution of Board.

5. The Local Government shall constitute for every leper asylum appointed under section 3 a Board consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

Arrest of pauper lepers.

6. (*1*) Within any local area which has been specified under section 3 any police-officer may arrest without a warrant any person who appears to him to be a pauper leper.

(*2*) Such police-officer shall forthwith take or send the person so arrested to the nearest convenient police-station.

7. Every

Person arrested how to be dealt with.

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

(*a*) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest;

(*b*) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

Procedure with regard to pauper lepers.

8. (*1*) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate:

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail:

Provided

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure shall be applicable. X of 1882.

(*2*) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

Power to prohibit lepers from following certain trades and doing certain acts.

9. (*1*) The Local Government may, by notification in the official Gazette, order that no leper shall, within any area specified under section 3,—

(*a*) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or

(*b*) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers ; or

(*c*) drive, conduct or ride in any public carriage plying for hire other than a railway carriage ; or

(*d*) exercise any trade or calling which may by such notification be prohibited to lepers.

(*2*) Any such notification may comprise all or any of the above prohibitions.

(*3*) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees :

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the

case

case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

Conviction after previous conviction.

10. (*1*) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(*2*) If any such leper fails to furnish any security required under sub-section (*1*), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(*3*) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

Penalty on person employing lepers in prohibited trade.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees :

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

Re-arrest of escaped lepers.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested by any police-

officer

officer without a warrant, and upon arrest shall be forthwith taken back to the leper asylum.

Inspection by Board.

13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (*a*) every leper therein admitted since the last inspection, together with the order for his admission, and (*b*), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Order of discharge by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Appeals.

15. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

Power of the Local Government to make rules.

16. The Local Government may, by notification in the official Gazette, make rules generally for carrying out the purposes of this Act, and in particular—

(*a*) for the guidance of all or any of the officers discharging any duty under this Act; and

(*b*) for the management of, and the maintenance of discipline in, a leper asylum.

Power to local authorities to expend funds.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other

other property of a local authority may be applied, any local authority may— and appropriate property to asylums.

(*a*) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority ;

(*b*) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

Protection to persons acting *bonâ fide* under Act.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith done or intended to be done under, or in pursuance of, the provisions of this Act.

Power to Lieutenant-Governor of Bengal to notify cessation of Bengal Act V of 1895 in certain areas.

19. When any part of this Act has been applied under sub-section (*4*) of section 1 to the whole or any portion of the territories administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor may, by notification in the official Gazette, direct that the whole or any part of the Lepers Act, 1895, shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the portion of the said territories to which this Act has been so applied.

Beng. Act V of 1895.

SCHEDULE.

A.—CERTIFICATE.

(*Section 7.*)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of person examined*) and that the said is not a leper as defined by the Lepers Act, 1898.

Given under my hand this day of 189 .

(*Signature.*)

Inspector of Lepers.

B.—CERTIFICATE.

SCHEDULE—*contd.*

B.—CERTIFICATE.

(*Section 7.*)

I, THE undersigned (*here enter name and official designation*) hereby certify that I on the day of at personally examined (*here enter name of leper*), and that the said is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this day of 189 .

(*Signature.*)

Inspector of Lepers.

C.—WARRANT OF DETENTION.

(*Section 8.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189 .

Seal.

(*Signature.*)

Magistrate.

D.—WARRANT

SCHEDULE—*concld.*

D.—WARRANT OF DETENTION.

(*Section 10.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section:

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189 .

Seal.

(*Signature.*)

Magistrate.

E.—ORDER OF DISCHARGE BY BOARD.*

(*Section 14.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS (*name and description*) was committed to your custody under an order dated the day of 189 and there have appeared to us sufficient grounds for the opinion that $\frac{\text{he}}{\text{she}}$ can be released without hazard or inconvenience to the community:

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this day of 189 .

(*Signatures.*)

Members of the Asylum Board.

* A corresponding form may be used by the District Magistrate for orders of discharge issued under section 10 (2).

ACT No. IV OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 18th February, 1898.*)

An Act to amend the Indian Penal Code.

WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows :— XLV of 1860.

Short title and commencement.

1. (*1*) This Act may be called the Indian Penal Code Amendment Act, 1898 ; and

(*2*) It shall come into force at once.

Substitution of new section for section 4, Act XLV, 1860. Extension of Code to extra-territorial offences.

2. Section 4 of the Indian Penal Code is hereby repealed, and the following section is substituted therefor, namely :— XLV of 1860.

"4. The provisions of this Code apply also to any offence committed by—

(*1*) any Native Indian subject of Her Majesty in any place without and beyond British India ;

(*2*) any other British subject within the territories of any Native Prince or Chief in India ;

(*3*) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

Explanation.—In this section the word 'offence' includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

Illustrations.

(*a*) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder

murder in any place in British India in which he may be found.

(*b*) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(*c*) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(*d*) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

XLV of 1860.

3. After section 108 of the Indian Penal Code the following section shall be added, namely :—

Insertion of new section after section 108, Act XLV, 1860.

"108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

Abetment in British India of offences outside it.

Illustration.

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder."

XLV of 1860.

4. Section 124A of the Indian Penal Code is hereby repealed, and the following section is substituted therefor, namely :—

Substitution of new section for section 124A, Act XLV, 1860.

"124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Sedition.

Explanation 1.—The expression 'disaffection' includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without

without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

Addition of new section after section 153, Act XLV, 1860.

5. After section 153 of the Indian Penal Code XLV of 1860 the following section shall be inserted, namely :—

Promoting enmity between classes.

"153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects."

Substitution of new section for section 505, Act XLV, 1860.

6. Section 505 of the Indian Penal Code is XLV of 1860. hereby repealed and the following section is substituted therefor, namely :—

Statements conducing to public mischief.

"505. Whoever makes, publishes or circulates any statement, rumour or report,—

(*a*) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or

(*b*) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against

against the State or against the public tranquillity ; or

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid."

THE CODE OF CRIMINAL PROCEDURE, 1898.

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CHAPTER III.

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ACT No. V OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 22nd March, 1898.*)

An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

CHAPTER I.

Short title. Commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July, 1898.

Extent.

(*2*) It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force, or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;

(*b*) heads of villages in the Presidency of Fort St. George; or

(*c*) village police-officers in the Presidency of Bombay:

Provided

Provided that the Local Government may, if it thinks fit, with the sanction of the Governor General in Council, by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

Repeal of enactments.

2. (*1*) On and from the first day of July, 1898, the enactments mentioned in the first schedule shall be repealed to the extent specified in the fourth column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

Notifications, etc., under repealed Acts.

(*2*) All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of July, 1898, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

Pending cases.

(*3*) The provisions of this Code shall apply to all proceedings instituted after the commencement of this Code, and, so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

References to Code of Criminal Procedure and other repealed enactments.

3. (*1*) In every enactment passed before this Code comes into force, in which reference is made to, or to any Chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Chapter or section.

Expressions in former Acts.

(*2*) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate,"

Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Subdivisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge."

Definitions.

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :—

"Advocate General."

(*a*) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf:

"Bailable offence." "Non-bailable offence."

(*b*) "bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence:

"Charge."

(*c*) "charge" includes any head of charge when the charge contains more heads than one:

"Chief Justice."

(*d*) "Chief Justice" includes also the Chief Judge of the Chief Court of the Punjab and the Recorder of Rangoon:

"Clerk of the Crown."

(*e*) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown:

"Cognizable offence." "Cognizable case."

(*f*) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the

presidency-towns,

presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant:

(*g*) "Commissioner of Police" includes a Deputy Commissioner of Police: "Commissioner of Police."

(*h*) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action, under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer: "Complaint."

(*i*) "European British subject" means— "European British subject."

(*i*) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal;

(*ii*) any child or grand-child of any such person by legitimate descent:

(*j*) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Court of the Recorder of Rangoon: in other cases "High Court" means the highest Court of criminal appeal or revision for any local area; or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf: "High Court."

(*k*) "inquiry" includes every inquiry other than "Inquiry."

than a trial conducted under this Code by a Magistrate or Court:

"Investigation." (*l*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf:

"Judicial proceeding." (*m*) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath:

"Non-cognizable offence." "Non-cognizable case." (*n*) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without warrant:

"Offence." (*o*) "offence" means any act or omission made punishable by any law for the time being in force;
it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871: I of 1871.

"Officer in charge of a police-station." (*p*) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present:

"Place." (*q*) "place" includes also a house, building, tent and vessel:

"Pleader." (*r*) "pleader," used with reference to any proceeding in any Court, means a pleader authorised under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any mukhtar or other person appointed with

with the permission of the Court to act in such proceeding:

(*s*) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf: "Police-station."

(*t*) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction: "Public Prosecutor."

(*u*) "subdivision" means a subdivision of a district: "Subdivision."

(*v*) "summons-case" means a case relating to an offence, and not being a warrant-case: and "Summons-case."

(*w*) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months. "Warrant-case."

(*2*) Words which refer to acts done, extend also to illegal omissions; and Words referring to acts.

all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. Words to have same meaning as in Indian Penal Code.

XLV of 1860.

XLV of 1860.

5. (*1*) All offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained. Trial of offences under Penal Code.

(*2*) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences. Trial of offences against other laws.

PART II.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

I.—Courts of Session :
II.—Presidency Magistrates :
III.—Magistrates of the first class :
IV.—Magistrates of the second class :
V.—Magistrates of the third class.

B.—Territorial Divisions.

Sessions divisions and districts.

7. (*1*) Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions : and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Power to alter divisions and districts.

(*2*) The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such divisions and districts.

Existing divisions and districts maintained till altered.

(*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency-towns to be deemed districts.

(*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

8. (*1*) The

(Part II.—Constitution and Powers of Criminal Courts and Offices. Chapter II.—Of the Constitution of Criminal Courts and Offices.—Secs. 8-10.)

Power to divide districts into subdivisions.

8. (*1*) The Local Government may divide any district outside the presidency-towns into subdivisions, or make any portion of any such district a subdivision, and may alter the limits of any subdivision.

Existing subdivisions maintained.

(*2*) All existing subdivisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

Court of Session.

9. (*1*) The Local Government shall establish a Court of Session for every sessions division, and appoint a Judge of such Court.

(*2*) The Local Government may, by general or special order in the official Gazette, direct at what place or places the Court of Session shall hold its sitting; but, until such order be made, the Courts of Session shall hold their sittings as heretofore.

(*3*) The Local Government may also appoint Additional Sessions Judges, and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(*4*) A Sessions Judge of one sessions division may be appointed by the Local Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Local Government may direct.

(*5*) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

District Magistrate.

10. (*1*) In every district outside the presidency-towns the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

(*2*) The

(*2*) The Local Government may appoint any Magistrate of the first class to be an Additional District Magistrate for a period not exceeding six months, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code as the Local Government may direct.

Officers temporarily succeeding to vacancies in office of District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

12. (*1*) The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Local limits of their jurisdiction.

(*2*) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

Power to put Magistrate in charge of subdivision.

13. (*1*) The Local Government may place any Magistrate of the first or second class in charge of a subdivision, and relieve him of the charge as occasion requires.

(*2*) Such Magistrates shall be called Subdivisional Magistrates.

Delegation of powers to District Magistrate.

(*3*) The Local Government may delegate its powers under this section to the District Magistrate.

14. (*1*) The

Special Magistrates.

14. (*1*) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns.

(*2*) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general or special order direct.

(*3*) With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (*1*).

(*4*) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

Benches of Magistrates.

15. (*1*) The Local Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

(*2*) Except

Powers exerciseable by Bench in absence of special direction.

(*2*) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to frame rules for guidance of Benches.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects:—

(*a*) the classes of cases to be tried;

(*b*) the times and places of sitting;

(*c*) the constitution of the Bench for conducting trials;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Magistrates and Benches to District Magistrate;

17. (*1*) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches; and

to Subdivisional Magistrate.

(*2*) Every Magistrate (other than a Subdivisional Magistrate) and every Bench exercising powers in a subdivision shall also be subordinate to the Subdivisional Magistrate, subject, however, to the general control of the District Magistrate.

Subordination of Assistant Sessions

(*3*) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise

exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges. Judges to Sessions Judge.

(4) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

18. (1) The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town. Appointment of Presidency Magistrates.

(2) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate, or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates.

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench. Benches.

20. Every

Local limits of jurisdiction.

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Chief Presidency Magistrate.

21. (*1*) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(*b*) the times and places at which Benches of Magistrates shall sit;

(*c*) the constitution of such Benches;

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session; and

(*e*) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(*2*) The Local Government may, for the purposes of this Code, declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

Justices of the Peace for the Mufassal.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the presidency-towns,

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

Justices of the Peace for the presidency-towns.

23. The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit.

Present Justices of the Peace.

24. (*1*) Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

(*2*) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

Ex officio Justices of the Peace.

25. In virtue of their respective offices, the Governor General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor General, the Judges of the High

High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

Suspension and removal of Judges and Magistrates.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

Suspension and removal of Justices of the Peace.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

Offences under Penal Code.

28. Subject to the other provisions of this Code, any offence under the Indian Penal Code may be tried— XLV of 1860

(*a*) by the High Court, or

(*b*) by

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws.

29. (*1*) Subject to the provisions of section 447, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(*2*) When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

Offences not punishable with death.

30. In the territories respectively administered by the Lieutenant-Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Courts and Sessions Judges may pass.

31. (*1*) A High Court may pass any sentence authorised by law.

(*2*) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any

any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(*3*) An Assistant Sessions Judge may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

Sentences which Magistrates may pass.

32. (*1*) The Courts of Magistrates may pass the following sentences, namely :—

(*a*) Courts of Presidency Magistrates and of Magistrates of the first class:
- Imprisonment for a term not exceeding two years, including such solitary confinement as is authorised by law;
- Fine not exceeding one thousand rupees;
- Whipping.

(*b*) Courts of Magistrates of the second class:
- Imprisonment for a term not exceeding six months, including such solitary confinement as is authorised by law;
- Fine not exceeding two hundred rupees;
- Whipping (if specially empowered).

(*c*) Courts of Magistrates of the third class:
- Imprisonment for a term not exceeding one month;
- Fine not exceeding fifty rupees.

(*2*) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorised by law to pass.

(*3*) No Court of any Magistrate of the second class

class shall pass a sentence of whipping unless it is specially empowered in this behalf by the Local Government.

Power of Magistrates to sentence to imprisonment in default of fine.

33. (*1*) The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law in case of such default:

Provided that—

(*a*) the term is not in excess of the Magistrate's powers under this Code:

Proviso as to certain cases.

(*b*) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(*2*) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain District Magistrates.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

Sentence in cases of conviction of several offences at one trial.

35. (*1*) When a person is convicted at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(*2*) In

(*2*) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows:—

Maximum term of punishment.

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(*3*) For the purpose of appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

Explanation.—Separable offences which come within the provisions of section 71 of the Indian Penal Code are not distinct offences within the meaning of this section. XLV of 1860.

Illustration.

A breaks into a house with intent to commit theft and steals property therein. A has not committed distinct offences.

C.—Ordinary and additional Powers.

Ordinary powers of Magistrates.

36. All District Magistrates, Subdivisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

Additional powers conferrable on Magistrates.

37. In addition to his ordinary powers, any Subdivisional Magistrate or any Magistrate of the first, second

second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

Control of District Magistrate's investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—Conferment, Continuance and Cancellation of Powers.

Mode of conferring powers.

39. (*1*) In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

(*2*) Every such order shall take effect from the date on which it is communicated to the person so empowered.

Continuance of powers of officers transferred.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature, within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

Powers may be cancelled.

41. (*1*) The Local Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrates and police.

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorised to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest XLV of 1860

nearest Magistrate or police-officer of such commission or intention.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

Village-headmen, accountants, landholders and others bound to report certain matters.

45. (*1*) Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent:

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code; XLV of 1860.

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;

(*e*) the

(*e*) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; XLV of 18

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(*2*) In this section—

(*i*) "village" includes village-lands; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV of 1

Appointment of village-headmen by District Magistrate in certain cases for purposes of this section.

(*3*) Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

CHAPTER V.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

Arrest how made.

46. (*1*) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(*3*) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.

Search of place entered by person sought to be arrested.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and, in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose,

and

and demand of admittance duly made, he cannot otherwise obtain admittance:

Breaking open zanána.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of searching women.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. The

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested. Power to seize offensive weapons.

B.—Arrest without Warrant.

54. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest— When police may arrest without warrant.

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly—any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service;

seventhly—

seventhly—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and 44 & 45 Vict., c. 69.

eighthly—any released convict committing a breach of any rule made under section 565, sub-section (*3*).

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Arrest of vagabonds, habitual robbers, etc.

55. (*1*) Any officer in charge of a police-station may, in like manner, arrest or cause to be arrested—

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of

of extortion habitually puts or attempts to put persons in fear of injury.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Procedure when police-officer deputes subordinate to arrest without warrant.

56. (*1*) When any officer in charge of a police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Refusal to give name and residence.

57. (*1*) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of offenders into other jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest under this Chapter, pursue such person into any place in British India.

Arrest by private persons.

59. (*1*) Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

Procedure on such arrest.

and shall, without unnecessary delay, make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person to the nearest police-station.

(*2*) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(*3*) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person arrested to be taken before Magistrate or officer in charge of police-station.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested not to be detained more than twenty-four hours.

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

62. Officers

(Part III.—General Provisions. Chapter V.—Of Arrest, Escape and Retaking.—Secs. 62-67. Chapter VI.—Of Processes to compel Appearance.—Sec. 68.)

Police to report apprehensions.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Subdivisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Discharge of person apprehended.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Offence committed in Magistrate's presence.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued, may immediately pursue and arrest him in any place in British India.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

Form of summons.

68. (*1*) Every summons issued by a Court under this Code shall be in writing, in duplicate, signed and sealed

sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Summons by whom served.

(*2*) Such summons shall be served by a police-officer, or, subject to such rules as the Local Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Summons how served.

69. (*1*) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(*2*) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(*3*) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of

of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company.

72. (*1*) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(*2*) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases, and when serving officer not present.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest.

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed, shall take such security and shall release such person from custody.

(*2*) The endorsement shall state—

(*a*) the number of sureties;
(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and
(*c*) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(*3*) Whenever security is taken under this section, the officer to whom the warrant is directed, shall forward the bond to the Court.

Warrants to whom directed.

77. (*1*) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

(*2*) When

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them. Warrant to several persons.

78. (1) A District Magistrate or Subdivisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or subdivision for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit. Warrant may be directed to landholders, etc.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued, is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed. Warrant directed to police-officer.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant. Notification of substance of warrant.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person. Person arrested to be brought before Court without delay.

82. A warrant of arrest may be executed at any place in British India. Where warrant may be executed.

83. (1) When a warrant is to be executed outside the Warrant forwarded for

execution outside juris diction.

the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a Presidency-town within the local limits of whose jurisdiction it is to be executed.

(*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to police-officer for execution outside jurisdiction.

84. (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(*2*) Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed, may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(*4*) This section applies also to the police in the towns of Calcutta and Bombay.

Procedure on arrest of

85. When a warrant of arrest is executed outside the

the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

person against whom warrant issued.

86. (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Procedure by Magistrate before whom person arrested is brought.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(*2*) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding.

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty

thirty days from the date of publishing such proclamation.

(*2*) The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(*3*) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding

88. (*1*) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(*2*) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made ; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(*3*) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(*a*) by seizure ; or

(*b*) by

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(*4*) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession; or

(*f*) by the appointment of a receiver; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(*5*) If the property ordered to be attached consists of live stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(*6*) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure. XIV of 1882.

(*7*) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or

or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (*7*) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in addition to, summons.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in

in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

Summons to produce document or other thing.

94. (*1*) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation,

investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition, if he causes such document or thing to be produced instead of attending personally to produce the same.

(*3*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities. I of 1872.

Procedure as to letters and telegrams.

95. (*1*) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(*2*) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detail such document, parcel or thing pending the orders of any

such

such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

When search-warrant may be issued.

96. (*1*) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (*1*), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(*2*) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Power to restrict warrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house suspected to contain

98. (*1*) If a District Magistrate, Subdivisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry

stolen property, forged documents, etc.

inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may by his warrant authorise any police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property,

property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(*2*) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,

I of 1889.

VIII of 1878.

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for

for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

C.—Discovery of Persons wrongfully confined.

Search for persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Subdivisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.— General Provisions relating to Searches.

Direction, etc., of search-warrants.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

Persons in charge of closed place to allow search.

102. (*1*) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free

free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses.

103. (*1*) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

(*3*) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(*4*) When any person is searched under section 102, sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

E.—Miscellaneous.

(*Part III.—General Provisions. Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.—Secs. 104-105. Part IV.—Prevention of Offences. Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.—Sec. 106.*)

E.—Miscellaneous.

Power to impound document, etc., produced.

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Magistrate may direct search in his presence.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction.

106. (*1*) Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such

(*Part IV.—Prevention of Offences. Chapter VIII. —Of Security for keeping the Peace and for Good Behaviour.—Sec. 107.*)

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.

Security for keeping the peace in other cases.

107. (1) Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person informed against, or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) When

Procedure of Magistrate not empowered to act under sub-section (*1*).

(*3*) When any Magistrate not empowered to proceed under sub-section (*1*) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(*4*) A Magistrate before whom a person is sent under this section, may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

Security for good behaviour from persons disseminating seditious matter.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, or XLV of 1860.

(*b*) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such

such Magistrate may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, except by the order or under the authority of the Governor General in Council or the Local Government or some officer empowered by the Governor General in Council in this behalf.

XXV of 1867.

Security for good behaviour from vagrants and suspected persons.

109. Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour from habitual offenders.

110. Whenever a Presidency Magistrate, District Magistrate, or Subdivisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government receives information that

that any person within the local limits of his jurisdiction—

(*a*) is by habit a robber, house-breaker or thief, or
(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or
(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or
(*d*) habitually commits mischief, extortion or cheating or counterfeiting coin, currency notes or stamps, or attempts so to do, or
(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

Proviso as to European vagrants.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874. IX of 1874.

Order to be made.

112. When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Procedure in respect of person present in Court.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him,

him, or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Copy of order under section 112 to accompany summons or warrant.

115. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

Power to dispense with personal attendance.

116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Inquiry as to truth of information.

117. (*1*) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(*2*) Such

(*2*) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and, where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(*3*) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

(*4*) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give security.

118. (*1*) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112:

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

thirdly, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

119. If,

(Part IV.—Prevention of Offences. Chapter VIII. —Of Security for keeping the Peace and for Good Behaviour.—Secs. 119-123.)

Discharge of person informed against.

119. If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all cases subsequent to Order to furnish Security.

Commencement of period for which security is required.

120. *(1)* If any person in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents of bond.

121. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

122. A Magistrate may refuse to accept any surety offered under this Chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

Imprisonment in default of security.

123. *(1)* If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given, commences, he shall, except in the case next hereinafter mentioned, be

be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before High Court or Court of Session.

(*2*) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(*3*) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security, shall not exceed three years.

(*4*) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

Kind of imprisonment.

(*5*) Imprisonment for failure to give security for keeping the peace shall be simple.

(*6*) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

Power to release persons imprisoned for failing to give security.

124. (*1*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard

hazard to the community or to any other person, he may order such person to be discharged.

(*2*) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(*3*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

125. The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

Discharge of sureties.

126. (*1*) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(*2*) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

(*3*) When

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(*3*) When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

Assembly to disperse on command of Magistrate or police-officer.

127. (*1*) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

Use of civil force to disperse.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law. XX of 1869.

129. If

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present, may cause it to be dispersed by military force.

Duty of officer commanding troops required by Magistrate to disperse assembly.

130. (*1*) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

XX of 1869.

(*2*) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law ; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted

under this Chapter.

instituted in any Criminal Court, except with the sanction of the Governor General in Council; and—

(*a*) no Magistrate or police-officer acting under this Chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.

PUBLIC NUISANCES.

Conditional order for removal of nuisance.

133. (*1*) Whenever a District Magistrate, a Sub-divisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a police-report or other information, and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation; or

to remove such goods or merchandise; or

to prevent or stop the construction of such building; or

to remove, repair or support it; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A "public place" includes also property belonging to the State, camping-grounds and grounds left unoccupied for sanitary and recreative purposes.

134. (*1*) The

Service or notification of order.

134. (*1*) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(*2*) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim jury.

135. The person against whom such order is made shall—

(*a*) perform, within the time specified in the order, the act directed thereby; or

(*b*) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

Consequence of his failing to do so.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code, and the order shall be made absolute. XLV of 1860.

Procedure where he appears to show cause.

137. (*1*) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(*2*) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(*3*) If the Magistrate is not so satisfied, the order shall be made absolute.

Procedure where he claims jury.

138. (*1*) On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(*a*) forthwith appoint a jury consisting of an uneven number of persons not less than five, of

of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(*c*) fix a time within which they are to return their verdict.

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

Procedure where jury finds Magistrate's order to be reasonable.

139. (*1*) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(*2*) In other cases, no further proceedings shall be taken under this Chapter.

Procedure on order being made absolute.

140. (*1*) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

XLV of 1860.

Consequences of disobedience to order.

(*2*) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the

the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorise its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(*3*) No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appoint jury or omission to return verdict.

141. If the applicant by neglect or otherwise prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

Injunction pending inquiry.

142. (*1*) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(*2*) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(*3*) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit repetition or continuance of public nuisance.

143. A District Magistrate or Subdivisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law. XLV of 1860.

CHAPTER XI

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Sub-divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(*2*) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(*3*) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(*4*) Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(*5*) No

(*5*) No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (*1*) Whenever a District Magistrate, Subdivisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(*2*) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(*3*) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(*4*) The

(4) The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject: Inquiry as to possession.

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also, that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) If the Magistrate decides that one of the parties was in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction. Party in possession to retain possession until legally evicted.

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto.

146. (1) If

Power to attach subject of dispute.

146. (*1*) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof.

(*2*) When the Magistrate attaches the subject of dispute, he may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure. XIV of 1882.

Disputes concerning easements, etc.

147. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right of use of any land or water (including any right of way or other easement over the same) within the local limits of his jurisdiction, he may enquire into the matter in manner provided by section 145, and may, if it appears to him that such right exists, make an order permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done, or claiming that such thing may be done, obtains the decision of a competent Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be:

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exerciseable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry; or, where the right is exerciseable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or occasions before such institution.

148. (*1*) Whenever

(*Part IV.—Prevention of Offences. Chapter XII.—Disputes as to Immoveable Property.—Sec. 148. Chapter XIII.—Preventive Action of the Police.—Secs. 149-151.*)

Local inquiry.

148. (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Subdivisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(*2*) The report of the person so deputed may be read as evidence in the case.

Order as to costs.

(*3*) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses, or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

CHAPTER XIII.

Preventive Action of the Police.

Police to prevent cognizable offences.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences.

151. A police officer knowing of a design to commit any cognizable offence may arrest, without orders from

from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures.

153. (*1*) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(*2*) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information in cognizable cases

154. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police-station, shall be reduced to writing by

by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Information in non-cognizable cases.

155. (*1*) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investigation into non-cognizable cases.

(*2*) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(*3*) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

Investigation into cognizable cases.

156. (*1*) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(*2*) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(*3*) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

157. (*1*) If,

Procedure where cognizable offence suspected.

157. (*1*) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot, to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender :

Provided as follows :—

Where local investigation dispensed with.

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot ;

Where police-officer in charge sees no sufficient ground for investigation.

(*b*) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(*2*) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (*1*), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section.

Reports under section 157 how submitted.

158. (*1*) Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

(*2*) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such

such report, transmit the same without delay to the Magistrate.

Power to hold investigation or preliminary inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-officer's power to require attendance of witnesses.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Examination of witnesses by police.

161. (*1*) Any police-officer making an investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(*2*) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Statements to police not to be signed or admitted in evidence.

162. (*1*) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if taken down in writing, be signed by the person making it, nor shall such writing be used as evidence:

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof: and such statement may be used to impeach

impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872. I of 1872.

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the Indian Evidence Act, 1872. I of 1872.

No inducement to be offered.

163. (*1*) No police-officer or person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24. I of 1872.

(*2*) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

Power to record statements and confessions.

164. (*1*) Every Magistrate not being a police-officer may record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

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(*2*) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(*3*) No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect:—

"I believe that this confession was voluntarily made.

made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

Search by police-officer.

165. (*1*) Whenever an officer in charge of a police-station, or a police-officer making an investigation, considers that the production of any document or thing is necessary to the conduct of an investigation into any offence which he is authorised to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or thing according to the directions of the summons or order, or when such document or thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

(*2*) Such officer shall, if practicable, conduct the search in person.

(*3*) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

(*4*) The

(*4*) The provisions of this Code as to search-warrants shall, so far as may be, apply to a search made under this section.

When officer in charge of police-station may require another to issue search-warrant.

166. (*1*) An officer in charge of a police-station may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(*2*) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

Procedure when investigation cannot be completed in twenty-four hours.

167. (*1*) Whenever it appears that any investigation under this Chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused (if any) to such Magistrate.

(*2*) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

(*3*) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(*4*) If

(*4*) If such order is given by a Magistrate other than the District Magistrate or Subdivisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

Report of investigation by subordinate police-officer.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Release of accused when evidence deficient.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. (*1*) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(*2*) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to

to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(*3*) If the Court of the District Magistrate or Subdivisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(*4*) The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

(*5*) The officer in whose presence the bond is executed, shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be subjected to restraint.

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. (*1*) Every

Diary of proceedings in investigation.

172. (*1*) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(*2*) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

I of 1872.

Report of police officer.

173. (*1*) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police-report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

(*2*) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order

order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

Police to inquire and report on suicide, etc.

174. (*1*) The officer in charge of a police-station or some other police-officer specially empowered by the Local Government in that behalf, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Subdivisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(*2*) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Subdivisional Magistrate.

(*3*) When

(*3*) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(*4*) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorised to hold inquests.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Subdivisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

Power to summon persons.

175. (*1*) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(*2*) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (*1*) When any person dies while in the custody of the police, the nearest Magistrate empowered to

to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of subsection (*1*), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(*2*) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

178. Notwithstanding

(Part VI.—Proceedings in Prosecutions. Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.—Secs. 178-180.)

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, or under this Code, section 526.

24 & 25 Vict., c. 104.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(*d*) A is wounded in the Native State of Baroda, and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

Place of trial where act is offence by

180. When an act is an offence by reason of its relation to any other act which is also an offence or

which

reason of relation to other offence.

which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Stealing.

(*3*) The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who received

or

or retained the same knowing or having reason to believe it to be stolen.

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Kidnapping and abduction.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Place of inquiry or trial where scene of offence is uncertain or not in one district only; or where offence is continuing, or consists of several acts.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offence committed on a journey.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office or Arms and Ammunition may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not:

Offences against Railway, Telegraph, Post-office and Arms Acts.

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

185. (*1*) Whenever

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

185. (*1*) Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

(*2*) In Lower Burma, when the offender is an European British subject, the Court of the Recorder of Rangoon, and in all other cases the Court of the Judicial Commissioner, shall, for the purposes of this section, be deemed to be the High Court.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

186. (*1*) When a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate, or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Magistrate's procedure on arrest.

(*2*) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be

sent,

sent, or bound to appear, the case shall be reported for the orders of the High Court.

Procedure where warrant issued by subordinate Magistrate.

187. (*1*) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Subdivisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

(*2*) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of British subjects for offences committed out of British India.

188. When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or

when any British subject commits an offence in the territories of any Native Prince or Chief in India, or

when a servant of the Queen (whether a British subject or not) commits an offence in the territories of any Native Prince or Chief in India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agents to certify fitness of enquiry into charge

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that,

that, in his opinion, the charge ought to be inquired into in British India; and, where there is no Political Agent, the sanction of the Local Government shall be required:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879, in respect of the same offence in any territory beyond the limits of British India. XXI of 1879.

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for Initiation of Proceedings.

Cognizance of offences by Magistrates.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate, or Subdivisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a police-report of such facts;

(*c*) upon

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The Local Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

Transfer or commitment on application of accused.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

Transfer of cases by Magistrates.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Subdivisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case, to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit

him

him for trial; and such Magistrate may dispose of the case accordingly.

Cognizance of offences by Courts of Session.

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the Local Government by general or special order may direct them to try, or, in the case of Assistant Sessions Judges, as the Sessions Judge of the division, by general or special order, may make over to them for trial.

Cognizance of offences by High Court.

194. (*1*) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the Indian High Courts Act, 1861, or any other provision of this Code. 24 & 25 Vict. c. 104.

Informations by Advocate General.

(*2*) (*a*) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of the Governor General in Council or the Local Government, exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(*b*) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney-General so far as the circumstances of the case

and

and the practice and procedure of the said High Court will admit.

(*c*) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

(*d*) The High Court may make rules for carrying into effect the provisions of this section.

195. (*1*) No Court shall take cognizance—

Prosecution for contempts of lawful authority of public servants.

(*a*) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned or of some public servant to whom he is subordinate;

XLV of 1860.

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

Prosecution for certain offences relating to documents given in evidence.

(*c*) of any offence described in section 463 or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

(*2*) In clauses (*b*) and (*c*) of sub-section (*1*) the term "Court" means a Civil, Revenue or Criminal

Court,

Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877. III of 1877.

(*3*) The provisions of sub-section (*1*), with reference to the offences named therein, apply also to the abetment of such offences, and attempts to commit them.

Nature of sanction necessary.

(*4*) The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

(*5*) When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

(*6*) Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no sanction shall remain in force for more than six months from the date on which it was given: provided that the High Court may, for good cause shewn, extend the time.

(*7*) For the purposes of this section every Court shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie, that is to say :—

(*a*) where such appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(*b*) where such appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of

the

the case in connection with which the offence is alleged to have been committed;

(*c*) where no appeal lies, such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first-mentioned Court is situate.

Prosecution for offences against the State.

196. No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

XLV of 1860.

Prosecution of Judges and public servants.

197. (*1*) When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Power of Government as to prosecution.

(*2*) Such Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution for breach of contract,

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the

Indian

defamation and offences against marriage.

Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence. XLV of 1860.

Prosecution for adultery or enticing a married woman.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed. XLV of 1860.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

Examination of complainant.

200. Subject to the provisions of section 476, a Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought

before

before him, require it to be reduced to writing;

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement of issue of process.

202. (*1*) If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorise in this behalf, or any Magistrate of the first or second class, is not satisfied as to the truth of a complaint of an offence of which he is authorised to take cognizance, he may, when the complainant has been examined, record his reasons, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police-officer, or by such other person, not being a Magistrate or police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

(*2*) If such investigation is made by some person not being a Magistrate or a police-officer, he shall exercise all the powers conferred by this Code on an

officer

officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Dismissal of complaint.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Issue of process.

204. (*1*) If, in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(*2*) Nothing in this section shall be deemed to affect the provisions of section 90.

(*3*) When by any law for the time being in force any process-fees or other fees are payable, no process

shall

shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (*1*) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(*2*) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. (*1*) Subject to the provisions of section 443, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(*2*) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court,

or,

or, in the opinion of the Magistrate, ought to be tried by such Court.

Taking of evidence produced.

208. (*1*) The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(*2*) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production of further evidence.

(*3*) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(*4*) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged.

209. (*1*) When the evidence referred to in section 208, sub-sections (*1*) and (*3*), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be

recorded

recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (*1*) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished, to accused.

(*2*) As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211. (*1*) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

Further list.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Power of Magistrate to examine such witnesses.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

Order of commitment.

213. (*1*) When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court

Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

(2) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

Person charged outside presidency-towns jointly with European British subjcet.

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject, who is about to be committed for trial, or to be tried before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

Quashing commitments under section 213 or 214.

215. A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section 477, or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Summons to witnesses for defence when accused is committed.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed :

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned

by

by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that, if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already

already aware of the commitment and the form of the charge;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses.

219. (*1*) The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(*2*) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

Custody of accused pending trial.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

Charge to state offence.

221. (*1*) Every charge under this Code shall state the offence with which the accused is charged.

(*2*) If

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only. Specific name of offence sufficient description.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged. How stated where offence has no specific name.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case. What implied in charge.

(6) In the presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court. Language of charge.

(7) If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed. Previous conviction when to be set out.

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception applied to it. XLV of 1860

(*b*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it. XLV of 1860

(*c*) A

(*c*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; XLV of 1860
but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d*) A is charged, under section 184 of the Indian Penal LLV of 1860
Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

222. (*1*) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(*2*) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234:

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge taken in sense of law under which offence is punishable.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations.

XLV of 1860. (*a*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account

account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d*) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled and that the error was material.

Procedure on commitment without charge or with imperfect charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations.

1. A is charged with the murder of C. A charge of abetting the murder of C may be added or substituted.

2. A is charged with forging a valuable security under section 467 of the Indian Penal Code. A charge of fabricating false evidence under section 193 may be added. XLV of 1860.

3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin.

XLV of 1860. coin. A charge under section 235 of the Indian Penal Code cannot be added.

Court may alter charge.

227. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

(*2*) Every such alteration or addition shall be read and explained to the accused.

When trial may proceed immediately after alteration.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed, or trial suspended.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been

been examined, and also to call any further witness whom the Court may think to be material.

Effect of material error.

232. (*1*) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(*2*) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence, under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction. XLV of 1860.

Joinder of Charges.

Separate charges for distinct offences.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

Three offences of same kind within year may be charged together.

234. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at

at one trial for, any number of them not exceeding three.

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code or of any special or local law.

XLV of 1860.

Trial for more than one offence.

235. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Offence falling within two definitions.

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts constituting one offence, but constituting when combined a different offence.

(*3*) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(*4*) Nothing contained in this section shall affect the Indian Penal Code, section 71.

XLV of 1860.

Illustrations.

to sub-section (*1*)—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code.

XLV of 1860.

(*b*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

XLV of 1860.

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her.

A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code. XLV of 1860.

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code. XLV of 1860.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code. XLV of 1860.

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code. XLV of 1860.

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code. XLV of 1860.

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code. XLV of 1860.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to sub-section (*2*)—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code. XLV of 1860.

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately

separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code. XLV of 1860.

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code. XLV of 1860.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code. XLV of 1860.

to sub-section (3)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code. XLV of 1860.

Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustrations.

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

When a person is charged with

237. (*1*) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears

one offence, he can be convicted of another.

appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

(*2*) When the accused is charged with an offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

When offence proved included in offence charged.

238. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(*3*) Nothing in this section shall be deemed to authorise a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(*a*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. XLV of 1860.

He

He may be convicted of criminal breach of trust under section 406.

XLV of 1860. (*b*) A is charged, under section 325 of the Indian Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly.

239. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this Chapter shall apply to all such charges.

Illustrations.

(*a*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges on conviction on one of several charges.

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

Procedure in summons-cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

Procedure when no such admission is made.

244. (*1*) If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(*2*) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

(*3*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (*1*) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause

to

to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

(2) If he finds the accused guilty, he shall pass sentence upon him according to law. Sentence.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons. Finding not limited by complaint or summons.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day: Non-appearance of complainant.

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused. Withdrawal of complaint.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused. Power to stop proceedings when no complainant.

Frivolous

Frivolous Accusations in Summons and Warrant-Cases.

Frivolous or vexatious accusations.

250. (*1*) If, in any case instituted by complaint as defined in this Code, or upon information given to a police-officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit:

Provided that, before making any such direction, the Magistrate shall—

(*a*) record and consider any objection which the complainant or informant may urge against the making of the direction, and,

(*b*) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(*2*) Compensation of which a Magistrate has ordered payment under sub-section (*1*) shall be recoverable as if it were a fine:

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(*3*) A complainant or informant who has been ordered under sub-section (*1*) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation,

as

as if such complainant or informant had been convicted on a trial held by such Magistrate.

(*4*) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (*3*), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(*5*) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any compensation paid or recovered under this section.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant-cases.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

Evidence for prosecution.

252. (*1*) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

(*2*) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

Discharge of accused.

253. (*1*) If, upon taking all the evidence referred to in section 252, and making such examination (if any)

any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

Charge to be framed when offence appears proved.

254. If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

Plea.

255. (*1*) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(*2*) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

Defence.

256. (*1*) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be re-called, and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(*2*) If

(*2*) If the accused puts in any written statement, the Magistrate shall file it with the record.

Process for compelling production of evidence at instances of accused.

257. (*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*2*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquittal.

258. (*1*) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

(*2*) If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

Absence of complainant.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

CHAPTER XXII.

OF SUMMARY TRIALS.

Power to try summarily.

260. (*1*) Notwithstanding anything contained in this Code,—

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Local Government,

may, if he or they think fit, try in a summary way all or any of the following offences :—

(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code ; XLV of 1860.

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;

(*f*) receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;

(*g*) assisting in the concealment or disposal of stolen property, under section 414 of the same

same Code, where the value of such property does not exceed fifty rupees ;

(*h*) mischief, under section 427 of the same Code ;

(*i*) house-trespass, under section 448 and offences under sections 451, 456 and 457 of the same Code ;

(*j*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;

(*k*) abetment of any of the foregoing offences ;

(*l*) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

(*m*) offences under section 20 of the Cattle-trespass Act, 1871 : I of 1871.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(*2*) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

Power to invest Bench of Magistrates invested with less power.

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

(*a*) offences against the Indian Penal Code, XLV of 1860. sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447 ;

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which

are

are punishable only with fine, or with imprisonment for a term not exceeding one month ;

(*c*) abetment of any of the foregoing offences ;

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure for summons and warrant cases applicable.

262. (*1*) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

(*2*) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

Record in cases where there is no appeal.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge ; but he or they shall enter in such form as the Local Government may direct the following particulars :—

(*a*) the serial number ;

(*b*) the date of the commission of the offence ;

(*c*) the date of the report or complaint ;

(*d*) the name of the complainant (if any) ;

(*e*) the name, parentage and residence of the accused ;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*) of section 260 the value of the property in respect of which the offence has been committed ;

(*g*) the plea of the accused and his examination (if any) ;

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor ;

(*i*) the sentence or other final order ; and

(*j*) the date on which the proceedings terminated.

264. (*1*) In

(Part VI.—Proceedings in Prosecutions. Chapter XXII.—Of Summary Trials.—Secs. 264-265. Chapter XXIII.—Of Trials before High Courts and Courts of Session.—Sec. 266.)

Record in appealable cases.

264. (*1*) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

(*2*) Such judgment shall be the only record in cases coming within this section.

Language of record and judgment.

265. (*1*) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

Bench may be authorised to employ clerk.

(*2*) The Local Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(*3*) If no such authorisation be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(*4*) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

Of Trials before High Courts and Courts of Session.

A.—Preliminary.

"High Court" defined.

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court"

Court" means a High Court of Judicature established or to be established under the Indian High Courts Act, 1861, and includes the Chief Court of the Punjab, the Court of the Recorder of Rangoon and such other Courts as the Governor General in Council may, by notification in the Gazette of India, declare to be High Courts for the purposes of this Chapter. 24 & 25 Vict., c. 104.

Trials before High Court to be by jury.

267. All trials under this Chapter before a High Court shall be by jury ;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861, the trial may, if the High Court so directs, be by jury. 24 & 25 Vict., c. 104.

Trials before Court of Session to be by jury or with assessors.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

Local Government may order trials before Court of Session to be by jury.

269. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction, revoke or alter such order.

(*2*) The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(*3*) When the accused is charged at the same trial with several offences of which some are and some are not

not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial.

271. (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

(*2*) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in succession.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charges.

273. (*1*) In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Effect of entry.

(*2*) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing

C.—Choosing a Jury.

Number of jury.

274. (*1*) In trials before the High Court the jury shall consist of nine persons.

(*2*) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than three, or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.

Jury for trial of persons not Europeans or Americans before Court of Session.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

Jurors to be chosen by lot.

276. The jurors shall be chosen by lot from the persons summoned to act as such, in such manner as the High Court may from time to time by rule direct.

Provided that—

Existing practice maintained;

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed;

persons not summoned when eligible;

secondly, in case of a deficiency of persons summoned, the number of jurors required may with the leave of the Court, be chosen from such other persons as may be present;

trials before special jurors.

thirdly, in the presidency-towns—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed; and

fourthly,

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Names of jurors to be called.

277. (*1*) As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection to jurors.

(*2*) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Objection without grounds stated.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

Grounds of objection.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(*a*) some presumed or actual partiality in the juror;

(*b*) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years;

(*c*) his having by habit or religious vows relinquished all care of worldly affairs;

(*d*) his holding any office in or under the Court;

(*e*) his executing any duties of police or being entrusted with police-duties;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury;

(*g*) his inability to understand the language in which the evidence is given, or when such evidence

evidence is interpreted the language in which it is interpreted;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of objection.

279. (*1*) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

(*2*) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury:

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of jury.

280. (*1*) When the jurors have been chosen, they shall appoint one of their number to be foreman.

(*2*) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(*3*) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

Swearing of jurors.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873. X of 1873.

Procedure when juror ceases to attend, etc.

282. (*1*) If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance,

or

or if it appears that any juror is unable to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

(*2*) In each of such cases the trial shall commence anew.

Discharge of jury in case of sickness of prisoner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—Choosing Assessors.

Assessors how chosen.

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.

Procedure when assessor is unable to attend.

285. (*1*) If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

(*2*) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

E.—Trial to Close of Cases for Prosecution and Defence.

Opening case for prosecution.

286. (*1*) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused. XLV of 1860.

Examination of witnesses.

(*2*) The prosecutor shall then examine his witnesses.

287. The

Examination of accused before Magistrate to be evidence.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.

Evidence given at preliminary inquiry admissible.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

Procedure after examination of witnesses for prosecution.

289. (*1*) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(*2*) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*3*) If the accused, or any one of several accused says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*4*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case,

case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to examination and summoning of witnesses.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Prosecutor's right of reply.

292. If the accused, or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply.

View by jury or assessors.

293. (*1*) Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(*2*) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessor may be examined.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

295. If

Jury or assessors to attend at adjourned sitting.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury.

Charge to jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of Judge.

298. (*1*) In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may

may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury.

299. It is the duty of the jury—

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(*c*) to decide all questions which according to law are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

Illustrations.

(*a*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*) The question is whether a person entertained a reasonable belief on a particular point,—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be given on each charge. Judge may question jury.

303. (*1*) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

(*2*) Such questions and the answers to them shall be recorded.

304. When

(Part VI.—Proceedings in Prosecutions. Chapter XXIII.—Of Trials before High Courts and Courts of Session.—Secs. 304-307.)

Amending verdict.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. (*1*) When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(*2*) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(*3*) If the Judge disagrees with the majority, he shall at once discharge the jury.

(*4*) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. (*1*) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(*2*) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict.

307. (*1*) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed.

(*2*) Whenever

(*2*) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody or admit him to bail.

(*3*) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Re-trial of accused after discharge of jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried with Assessors.

Delivery of opinions of assessors.

309. (*1*) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record such opinion.

Judgment.

(*2*) The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors.

(*3*) If the accused is convicted, the Judge shall pass sentence on him according to law.

I.—Procedure

(Part VI.—Proceedings in Prosecutions. Chapter XXIII.—Of Trials before High Courts and Courts of Session.—Secs. 310-312.)

I.—Procedure in Case of Previous Conviction.

Procedure in case of previous conviction.

310. In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows :—

(*a*) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence :

(*b*) if he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge :

(*c*) if he answers that he has been so previously convicted, the Judge may proceed to pass sentence on him accordingly ; but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury, or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

When evidence of previous conviction may be given.

311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.

I of 1872.

J.—List of Jurors for High Court, and summoning Jurors for that Court.

Number of special jurors.

312. The names of not more than four hundred persons

persons shall at any one time be entered in the special jurors' list.

Lists of common and special jurors.

313. (*1*) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

(*a*) a list of all persons liable to serve as common jurors; and

(*b*) a list of persons liable to serve as special jurors only.

(*2*) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(*4*) The Governor General in Council in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

Discretion of officer preparing lists.

(*5*) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists, preliminary and revised.

314. (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

(*2*) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette

Gazette before the first day of May next after their preparation.

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

Number of jurors to be summoned in presidency-towns.

315. (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons.

(*3*) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the presidency-towns.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors.

317. (*1*) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the commanding officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged

charged with offences before the High Court as aforesaid.

(*2*) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his commanding officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

Failure of jurors to attend.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid:

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

Liability to serve as jurors or assessors.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Exemptions.

320. The following persons are exempt from liability to serve as jurors or assessors, namely:—

(*a*) officers in civil employ superior in rank to a District Magistrate;

(*b*) salaried

(Part VI.—Proceedings in Prosecutions. Chapter XXIII.—Of Trial before High Courts and Courts of Session.—Sec. 321.)

(*b*) salaried Judges;
(*c*) Commissioners and Collectors of Revenue or Customs;
(*d*) police-officers and persons engaged in the Preventive Service in the Customs Department;
(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;
(*f*) persons actually officiating as priests or ministers of their respective religions;
(*g*) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;
(*h*) surgeons and others who openly and constantly practise the medical profession;
(*i*) legal practitioners (as defined by the Legal Practitioners Act, 1879) in actual practice;
(*j*) persons employed in the Post-office and Telegraph Departments;
(*k*) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641;
(*l*) other persons exempted by the Local Government from liability to serve as jurors or assessors.

XVIII of 1879.

XIV of 1882.

List of jurors and assessors.

321. (*1*) The Sessions Judge, and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (*b*) to (*h*), both inclusive.

(*2*) The

(*2*) The list shall contain the name, place of abode and quality or business of every such person; and, if the person is an European or an American, the list shall mention the race to which he belongs.

Publication of list.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

Objections to list.

323. To every such copy or extract shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court-house, and at a time to be mentioned in the notice.

Revision of list.

324. (*1*) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may establish his right to any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service.

(*2*) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(*3*) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

(*4*) Any order of the Sessions Judge and Collector

or

or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(6) The list so prepared and revised shall be again revised once in every year. Annual revision of list.

(7) The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury. Preparation of list of special jurors.

326. (1) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not District Magistrate to summon jurors and assessors.

not being less than double the number required for any such trial.

(*2*) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

Power to summon another set of jurors or assessors.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

Form and contents of summons.

328. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

When Government or Railway servant may be excused.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

Court may excuse attendance of juror or assessor.

330. (*1*) The Court of Session may, for reasonable cause, excuse any juror or assessor from attendance at any particular session.

Court may relieve special jurors from liability to serve again as jurors for twelve months.

(*2*) The Court of Session may, if it shall think fit at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

331. (*1*) At

List of jurors and assessors attending.

331. (*1*) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(*2*) Such list shall be kept with the list of the jurors and assessors as revised under section 324.

(*3*) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

332. (*1*) Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(*2*) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(*3*) For good cause shewn, the Court may remit or reduce any fine so imposed.

(*4*) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

Power of Advocate General to stay prosecution.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged

of

of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

(*2*) But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

Place of trial of European British subjects.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place named.

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

Tender of pardon to accomplice.

337. (*1*) In the case of any offence triable exclusively by the Court of Session or High Court, the

the District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

(*2*) Every person accepting a tender under this section shall be examined as a witness in the case.

(*3*) Such person, if not on bail, shall be detained in custody until the termination of the trial by the Court of Session or High Court, as the case may be.

(*4*) Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and, when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything

anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been forfeited under this section.

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

Right of accused to be defended.

340. Every person accused before any Criminal Court may of right be defended by a pleader.

Procedure where accused does not understand proceedings.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Power to examine the accused.

342. (*1*) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(*2*) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court

Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(*3*) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(*4*) No oath shall be administered to the accused.

No influence to be used to induce disclosures.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Power to postpone or adjourn proceedings.

344. (*1*) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Remand.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(*2*) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Reasonable cause for remand.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences.

345. (*1*) The offences punishable under the sections of the Indian Penal Code described in the first two columns of the table next following may be compounded

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compounded by the persons mentioned in the third column of that table :—

Offence.	Sections of Indian Penal Code applicable.	Person by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour .	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass . . .	447	The person in possession of the property trespassed upon.
House-trespass . . .	448	
Criminal breach of contract of service.	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with a criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation, except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.

(*2*) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section

section 335, section 337, or section 338 of the Indian Penal Code, may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused.

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(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(7) No offence shall be compounded except as provided by this section.

Procedure of Provincial Magistrate in cases which he cannot dispose of.

346. (1) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

(2) The Magistrate to whom the case is submitted may,

may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

347. (*1*) If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

(*2*) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

Trial of persons previously convicted of offences against coinage, stamp-law or property.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, shall be committed to the Court of Session or High Court, as the case may be, unless the Magistrate before whom the proceedings are pending is of opinion that he can himself pass an adequate sentence if the accused is convicted: XLV of 1860.

Provided that, if the District Magistrate has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

Procedure when Magistrate cannot pass sentence sufficiently severe.

349. (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record

the

the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Subdivisional Magistrate to whom he is subordinate.

(*2*) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law:

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and recommence the inquiry or trial:

Provided as follows:—

(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(*b*) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially

materially prejudiced thereby, and may order a new inquiry or trial.

(*2*) Nothing in this section applies to cases in which proceedings have been stayed under section 346.

Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in

353. Except as otherwise expressly provided, all evidence

evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader. presence of accused.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner. Manner of recording evidence outside presidency-towns.

355. (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class, and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds. Record in summons-cases and in trials of certain offences by first and second class Magistrates.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence, Record in other cases outside presidency towns.

superintendence, and shall be signed by the Magistrate or Sessions Judge.

Evidence given in English.

(*2*) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

Memorandum when evidence not taken down by the Magistrate or Judge himself.

(*3*) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(*4*) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

Language of record of evidence.

357. (*1*) The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court.

(*2*) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

Option to Magistrate in cases under section 355.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section.

Mode of recording evidence under section 356 or section 357.

359. (*1*) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(*2*) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

Procedure in regard to such evidence when completed.

360. (*1*) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(*2*) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(*3*) If the evidence is taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted

interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his pleader.

361. (*1*) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(*2*) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(*3*) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Record of evidence in Presidency Magistrates' Courts.

362. (*1*) In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(*2*) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

(*3*) Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

Remarks respecting demeanour of witness.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Examination of accused

364. (*1*) Whenever the accused is examined by any

any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Punjab, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English: and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers. how recorded.

(*2*) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

(*3*) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(*4*) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. Every

(Part VI.—Proceedings in Prosecutions. Chapter XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials.—Sec. 365. Chapter XXVI.—Of the Judgment.—Sec. 366.)

Record of evidence in High Court.

365. Every High Court established by Royal Charter and the Chief Court of the Punjab may, from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands :

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(*3*) No

(*3*) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment.

367. (*1*) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English ; and shall contain the point or points for determination, the decision thereon and the reasons for the decision ; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(*2*) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

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Judgment in alternative.

(*3*) When the conviction is under the Indian Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

XLV of 1860.

(*4*) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(*5*) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed :

Provided

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

Sentence of death.

368. (*1*) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of transportation.

(*2*) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter judgment.

369. No Court, other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in sections 395 and 484 or to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;
(*b*) the date of the commission of the offence;
(*c*) the name of the complainant (if any) ;
(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence ;
(*e*) the offence complained of or proved ;
(*f*) the plea of the accused and his examination (if any) ;
(*g*) the final order ;
(*h*) the date of such order ; and
(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

Copy of judgment, etc., to be given to accused on application.

371. (*1*) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

(*2*) In

(Part VI.—Proceedings in Prosecutions. Chapter XXVI.—Of the Judgment.—Secs. 372-373. Chapter XXVII.—Of the Submission of Sentences for Confirmation.—Secs. 374-375.)

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

Case of person sentenced to death.

(*3*) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

Judgment when to be translated.

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

Court of Session to send copy of finding and sentence to District Magistrate.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

Sentence of death to be submitted by Court of Session.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

Power to direct further inquiry to be made or additional evidence to be taken.

375. (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(*2*) Such

(*2*) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(*3*) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person:

Provided that no order of confirmation shall be made under this section uutil the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation or new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Procedure in case of difference of opinion.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such

such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in cases submitted to High Court for confirmation.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted by Magistrate not empowered to act under section 562.

380. Where proceedings are submitted to a Magistrate of the first class or a Subdivisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such enquiry or evidence to be made or taken.

CHAPTER XXVIII.

Of Execution.

Execution of order passed under section 376.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

Postponement of capital sentence on pregnant woman.

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to transportation for life.

383. Where

Execution of sentences of transportation or imprisonment in other cases.

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

Direction of warrant for execution.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

Warrant with whom to be lodged.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant for levy of fine.

386. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Effect of such warrant.

387. Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorise the distress and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

Suspension of execution of sentence of imprisonment.

388. (*1*) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and

in

in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

(*2*) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub-section (*1*), and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered.

Who may issue warrant.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

Execution of sentence of whipping only.

390. When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

Execution of sentence of whipping, in addition to imprisonment.

391. (*1*) When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is made within that time, until the sentence is confirmed by the Appellate Court; but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(*2*) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(*3*) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced is less than three months.

392. (*1*) In

Mode of inflicting punishment.

392. (*1*) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light ratan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instrument, as the Local Government directs.

Limit of number of stripes.

(*2*) In no case shall such punishment exceed thirty stripes.

Not to be executed by instalments. Exemptions.

393. No sentence of whipping shall be executed by instalments: and none of the following persons shall be punishable with whipping (namely):—

(*a*) females;

(*b*) males sentenced to death or to transportation, or to penal servitude, or to imprisonment for more than five years;

(*c*) males whom the Court considers to be more than forty-five years of age.

Whipping not to be inflicted if offender not in fit state of health.

394. (*1*) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Stay of execution.

(*2*) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Procedure if punishment cannot be inflicted under section 394.

395. (*1*) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender

offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(*2*) Nothing in this section shall be deemed to authorise any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

Execution of sentences on escaped convicts.

396. (*1*) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say :—

(*2*) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(*3*) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

Explanation.—For the purposes of this section—

(*a*) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;

(*b*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(*c*) a

(*c*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence.

397. When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced:

Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

Saving as to sections 396 and 397.

398. (*1*) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(*2*) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

Confinement of youthful offenders in reformatories.

399. (*1*) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail,

jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

(*2*) All persons confined under this section shall be subject to the rules so prescribed.

(*3*) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

VIII of 1897.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

Return of warrant on execution of sentence.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. (*1*) When any person has been sentenced to punishment for an offence, the Governor General in Council or the Local Government may at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

Power to suspend or remit sentences.

(*2*) Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence, the Governor General in Council or the Local Government,

ernment, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

(*3*) If any condition on which a sentence has been suspended or remitted, is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(*4*) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(*5*) Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment.

(*6*) The Governor General in Council and the Local Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

Power to commute punishment.

402. The Governor General in Council or the Local Government may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

CHAPTER XXX.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

Person once convicted or acquitted not to be tried for same offence.

403. (*1*) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

(*2*) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (*1*).

(*3*) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(*4*) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(*5*) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897, or of section 188 of this Code.

X of 1897.

Explanation.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section.

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

(Part VII.—Of Appeal, Reference and Revision. Chapter XXXI.—Of Appeals.—Secs. 404-407.)

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Appeal from order rejecting application for restoration of attached property.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order requiring security for good behaviour.

406. Any person ordered by a Magistrate other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118 may appeal to the District Magistrate.

Appeal from sentence of Magistrate of the second or third class.

407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Subdivisional Magistrate of the second class, may appeal to the District Magistrate.

Transfer of appeals to first class Magistrate.

(*2*) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

408. Any

(Part VII.—Of Appeal, Reference and Revision. Chapter XXXI.—Of Appeals.—Secs. 408-412.)

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class, may appeal to the Court of Session:

Provided as follows:—

(*a*) any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session;

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court;

(*c*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court. XLV of 1860.

Appeals to Court of Session how heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge.

Appeal from sentence of Court of Session.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

Appeal from sentence of Presidency Magistrate.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

No appeal in certain cases when accused pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the

first

first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in petty cases.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

No appeal from certain summary convictions.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

Proviso to sections 413 and 414.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal, shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

Saving of sentences on European British subjects.

416. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects.

417. The

Appeal on behalf of Government in case of acquittal.

417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

Appeal on what matters admissible.

418. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily :

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

422. If

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

Powers of Appellate Court in disposing of appeal.

423. (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction, (*1*) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (*2*) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or, (*3*) with or without such reduction and with or without altering the finding, alter the nature of the sentence but, subject to the

provisions

provisions of section 106, sub-section (*3*), not so as to enhance the same;

(*c*) in an appeal from any other order, alter or reverse such order;

(*d*) make any amendment or any consequential or incidental order that may be just or proper.

(*2*) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

Judgments of subordinate Appellate Courts.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

Order by High Court on appeal to be certified to lower Court.

425. (*1*) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(*2*) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal.

426. (*1*) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded

recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond. Release of appellant on bail.

(*2*) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(*3*) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail. Arrest of accused in appeal from acquittal.

428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate. Appellate Court may take further evidence or direct it to be taken.

(*2*) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(*3*) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

(*4*) The taking of evidence under this section shall

shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

Procedure where Judges of Court of Appeal are equally divided.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Finality of orders on appeal.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

Abatement of appeals.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII.

Of Reference and Revision.

Reference by Presidency Magistrate to High Court.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

433. (*1*) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

(*2*) The

(*2*) The High Court may direct by whom the costs of such reference shall be paid. Direction as to costs.

434. (*1*) When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial. Power to reserve questions arising in original jurisdiction of High Court.

(*2*) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit. Procedure when question reserved.

435. (*1*) The High Court or any Sessions Judge or District Magistrate, or any Subdivisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court. Power to call for records of inferior Courts.

(*2*) If any Subdivisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(*3*) Orders

(*3*) Orders made under sections 143 and 144 and proceedings under Chapter XII and section 176 are not proceedings within the meaning of this section.

(*4*) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

Power to order commitment.

436. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged:

Provided as follows:—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

Power to order inquiry.

437. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any Subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204,

204, or into the case of any accused person who has been discharged.

Report to High Court.

438. (*1*) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

(*2*) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by the Sessions Judge.

High Court's powers of revision.

439. (*1*) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence; and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(*2*) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(*3*) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than

might

might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(*4*) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(*5*) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

Optional with Court to hear parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision :

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (*2*).

Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue ; and the Court shall consider such statement before over-ruling or setting aside the said decision or order.

High Court's order to be certified to lower Court or Magistrate.

442. When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified ; and, if necessary, the record shall be amended in accordance therewith.

PART VIII.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.

Magistrates who may inquire into and try charges against European British subjects.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

Sessions Judge to be an European British subject. Assistant Sessions Judge to have held office for three years and to be specially empowered.

444. No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government.

Cognizance of offence committed by European British subject.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

Sentences which may be passed by

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District

Provincial Magistrates.

District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.

When commitment is to be to Court of Session and when to High Court.

447. (*1*) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

(*2*) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

Trial of offences of which one is, and the others are not, punishable with death or transportation for life.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

Sentences which may be passed by Court of Session.

449. (*1*) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

Procedure when Sessions Judge

(*2*) If, at any time after the commitment and before signing judgment, the presiding Judge thinks that

that the offence which appears to be proved, cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

finds his powers inadequate.

450. (*1*) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

Jury or assessors before High Court or Court of Session.

(*2*) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (*1*), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

451. (*1*) In trials of European British subjects before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 450.

Right of European British subject to claim jury before District Magistrate.

(*2*) If a claim is made under sub-section (*1*) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence,

defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(*3*) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(*4*) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

(*5*) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

(*6*) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

(*7*) All Courts may construe any of the provisions referred to in sub-section (*5*) or sub-section (*6*), in so far as they are made applicable by those sub-sections, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

(*8*) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

Transfer to another Court in certain cases.

(*9*) If an accused person claims to be tried by jury under this section and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 450 cannot be constituted for the trial before himself, or

cannot

cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under this section, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

(*10*) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under this section.

Trial of European British subject and Native jointly accused.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

When Native may claim separate trial.

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

Procedure on claim of person to be dealt with as European British subject.

453. (*1*) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making

making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(*2*) When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further enquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

(*3*) When the Court before which any person is tried, decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status waiver.

454. (*1*) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case.

(*2*) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

455. Where

(Part VIII.—Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Secs. 455-459.)

Trial under this Chapter of person not an European British subject.

455. Where a person who is not an European British subject is dealt with as such under this Chapter and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

Right of European British subject unlawfully detained to apply for order to be brought before High Court.

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the High Court which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

Procedure on such application.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

Territories throughout which High Court may issue such orders.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct.

Application of acts conferring jurisdiction on Magistrates or Courts of Session.

459. (*1*) Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(*2*) Nothing in this section shall be deemed to authorise

authorise any Court to exceed the limits prescribed by this Chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate or any Judge presiding in a Court of Session, not being a Justice of the Peace.

Jury for trial of Europeans or Americans.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims, be Europeans or Americans.

Jury when European or American charged jointly with one of another race.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American and in compliance with a claim made under section 460 is tried by a jury or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

Summoning and empanelling jurors under section 450, 451 or 460.

462. (*1*) When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 450, or section 460, or before the Court of a District Magistrate or Sessions Judge proceeding under section 451, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

(*2*) The Court shall also, at the same time, in like manner, cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

(*3*) From

(Part VIII.—Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Sec. 463. Chapter XXXIV.—Lunatics.—Sec. 464.)

(*3*) From the whole number of persons returned the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained:

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

Conduct of criminal proceedings against European British subjects, etc.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV.

LUNATICS.

Procedure in case of accused being lunatic.

464. (*1*) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

(*2*) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of

of making his defence, he shall postpone further proceedings in the case.

Procedure in case of person committed before Court of Session or High Court being lunatic.

465. (*1*) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

(*2*) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

Release of lunatic pending investigation or trial.

466. (*1*) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf..

Custody of lunatic.

(*2*) If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, remanding the accused to custody pending orders, and the Local Government may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

Resumption of inquiry or trial.

467. (*1*) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(*2*) When

(*2*) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before Magistrate or Court.

468. (*1*) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(*2*) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment of acquittal on ground of lunacy.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on

471. (*1*) Whenever such judgment states that the accused

such ground to be kept in safe custody.

accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

(*2*) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

Power of Governor General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

(*3*) The Governor General in Council may, by general or special order, direct that any person whom the Local Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined, to any lunatic asylum, jail or other place of safe custody in British India.

Power of Local Government to relieve Inspector General of certain functions.

(*4*) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.

Lunatic prisoners to be visited by Inspector General.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

473. If

Procedure where lunatic prisoner is reported capable of making his defence.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.

474. (*1*) If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

(*2*) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

Delivery of lunatic to care of relative.

475. (*1*) Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and, on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

(*2*) Whenever

(*2*) Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

(*3*) The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

Procedure in cases mentioned in section 195.

476. (*1*) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195 and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

(*2*) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorised under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

Power of Court of Session as to

477. (*1*) Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred

referred to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge. such offences committed before itself.

(*2*) Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

478. (*1*) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be. Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

(*2*) For the purposes of an inquiry under this section the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence. Procedure of Civil or Revenue Court in such cases.

480. (*1*) When

(Part VIII.—Special Proceedings. Chapter XXXV. —Proceedings in case of certain Offences affecting the Administration of Justice.—Secs. 480-482.)

Procedure in certain cases of contempt.

480. (*1*) When any such offence as is described in section 175, section 178, section 179, section 180, or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. XLV of 1860.

(*2*) Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

Record in such cases.

481. (*1*) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(*2*) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult. XLV of 1860.

Procedure where Court considers that case should not be dealt with under section 480.

482. (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction

tion to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

483. When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877, shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

III of 1877.

Discharge of offender on submission or apology.

484. When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Imprisonment or committal of person refusing to answer or produce document.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined

and

and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

Appeals from convictions in contempt-cases

486. (*1*) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(*2*) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(*3*) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(*4*) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency-towns, to the High Court.

Certain Judges and Magistrates not to try offences referred to in

487. (*1*) Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court and the Recorder of Rangoon, shall try any person for any offence referred

referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding. section 195 when committed before themselves.

(*2*) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. (*1*) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Subdivisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs. Order for maintenance of wives and children.

(*2*) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

(*3*) If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment Enforcement of order.

onment for a term which may extend to one month or until payment if sooner made :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

(*4*) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(*5*) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(*6*) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases :

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any order so made may be set aside for good cause shewn, on application made within three months from the date thereof.

(*7*) The accused may tender himself as a witness, and in such case shall be examined as such.

(*8*) The Court in dealing with applications under this

this section shall have power to make such order as to costs as may be just.

(*9*) The accused may be proceeded against in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increases the allowance the monthly rate of fifty rupees in the whole be not exceeded.

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *HABEAS CORPUS*.

Power to issue directions of the nature of a *habeas corpus*.

491. (*1*) Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its ordinary original civil jurisdiction be brought up before

before the Court to be dealt with according to law;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(*2*) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(*3*) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, III of 1818. 1818, Madras Regulation II of 1819, or Bombay XXXIV of 1850. Regulation XXV of 1827, or the State Prisoners Act, III of 1858. 1850, or the State Prisoners Act, 1858.

PART IX.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

Of the Public Prosecutor.

Power to appoint Public Prosecutors.

492. (*1*) The Governor General in Council or the Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(*2*) In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Subdivisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor appointed by the Governor General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw

withdraw from the prosecution of any person; and, upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged;

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

Permission to conduct prosecution.

495. (*1*) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council, but no person, other than the Advocate General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

(*2*) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(*3*) Any person conducting the prosecution may do so personally or by a pleader.

(*4*) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

In what cases bail to be taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or

or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

When bail may be taken in case of non-bailable offence.

497. (*1*) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

(*2*) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(*3*) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

Power to direct admission to bail or reduction of bail.

498. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

499. (*1*) Before

Bond of accused and sureties.

499. (*1*) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(*2*) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge from custody.

500. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(*2*) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Discharge of sureties.

502. (*1*) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(*2*) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(*3*) On

(*3*) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

When attendance of witness may be dispensed with.

503. (*1*) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission, and procedure thereunder.

(*2*) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(*3*) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and

and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(*4*) Where the commission is issued to such officer as is mentioned in sub-section (*2*), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

Commission in case of witness being within presidency-town.

504. (*1*) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

(*2*) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3. 39 & 40 Vict., c. 46.

Parties may examine witnesses.

505. The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed, shall examine the witness upon such interrogatories.

(*2*) Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Power of provincial Subordinate Magistrate to apply for issue of commission.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose

whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

Return of commission.

507. (*1*) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(*2*) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872, may also be received in evidence at any subsequent stage of the case before another Court.

I of 1872.

Adjournment of inquiry or trial.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI.

Special Rules of Evidence.

Deposition of medical witness.

509. (*1*) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission

mission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

Power to summon medical witness.

(*2*) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Report of Chemical Examiner.

510. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

Previous conviction or acquittal how proved.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

Record of evidence in absence of accused.

512. (*1*) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any)

any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence when offender unknown.

(*2*) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of British India.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

514. (*1*) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(*2*) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(*3*) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorise the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(*4*) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(*5*) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(*6*) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

Appeal from, and revision of, orders under section 514.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

Power to direct levy of amount

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond

to

to appear and attend at such High Court or Court of Session. due on certain recognizances

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

Order for disposal of property regarding which offence committed.

517. (*1*) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(*2*) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(*3*) When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live-stock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District or Subdivisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Subdivisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

521. (*1*) On a conviction under the Indian Penal Code, section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. XLV of 1860.

(*2*) The Court may, in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, XLV of 1860.

drug

drug or medical preparation in respect of which the conviction was had, to be destroyed.

Power to restore possession of immoveable property.

522. (*1*) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

(*2*) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

Procedure by police upon seizure of property taken under section 51 or stolen.

523. (*1*) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

(*2*) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District

District Magistrate or Subdivisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

Power to sell perishable property.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported, is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

High Court may transfer case or itself try it.

526. (*1*) Whenever it is made to appear to the High Court—

(*a*) that a fair and impartial enquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

(*e*) that

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;

(*ii*) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(*iii*) that any particular criminal case or appeal be transferred to and tried before itself; or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session.

(*2*) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(*3*) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(*4*) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(*5*) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties,

conditioned

conditioned that he will, if convicted, pay the costs of the prosecutor.

Notice to Public Prosecutor of application under this section.

(*6*) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(*7*) Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under this section.

(*8*) If, in any criminal case or appeal, before the commencement of the hearing, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending, his intention to make an application under this section in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

Power of Governor General in Council to transfer criminal cases and appeals.

527. (*1*) The Governor General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

The Court to which such case or appeal is transferred

ferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

District or Subdivisional Magistrate may withdraw or refer cases.

528. (*1*) Any Chief Presidency Magistrate, District Magistrate or Subdivisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorise District Magistrate to withdraw classes of cases.

(*2*) The Local Government may authorise the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

(*3*) A Magistrate making an order under this section shall record in writing his reasons for making the same.

(*4*) The head of a village under Madras Regulation IV of 1821 is a Magistrate for the purposes of this section.

CHAPTER XLV.

Of Irregular Proceedings.

Irregularities which do not vitiate proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely :—

(*a*) to issue a search-warrant under section 98 ;

(*b*) to order, under section 155, the police to investigate an offence ;

(*c*) to hold an inquest under section 176 ;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;

(*e*) to

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*);
(*f*) to transfer a case under section 192;
(*g*) to tender a pardon under section 337 or section 338;
(*h*) to sell property under section 524 or section 525; or
(*i*) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 88;
(*b*) issues a search-warrant for a letter, parcel or other thing in the Post-office, or a telegram in the Telegraph Department;
(*c*) demands security to keep the peace;
(*d*) demands security for good behaviour;
(*e*) discharges a person lawfully bound to be of good behaviour;
(*f*) cancels a bond to keep the peace;
(*g*) makes an order under section 133, as to a local nuisance;
(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance;
(*i*) issues an order under section 144;
(*j*) makes an order under Chapter XII;
(*k*) takes cognizance, under section 190, sub-section (*1*), clause (*c*), of an offence;
(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate;
(*m*) calls, under section 435, for proceedings;
(*n*) makes an order for maintenance;

(*o*) revises

(*o*) revises, under section 515, an order passed under section 514;

(*p*) tries an offender;

(*q*) tries an offender summarily; or

(*r*) decides an appeal;

his proceedings shall be void.

Proceedings in wrong place.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, subdivision or other local area, unless it appears that such error has in fact occasioned a failure of justice.

When irregular commitments may be validated.

532. (*1*) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(*2*) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

Non-compliance with provisions of section 164 or 364.

533. (*1*) If any Court before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding

notwithstanding anything contained in the Indian Evidence Act, 1872, section 91, such statement shall be admitted, if the error has not injured the accused as to his defence on the merits. I of 1872.

(*2*) The provisions of this section apply to Courts of Appeal, Reference and Revision.

Omission to ask question prescribed by section 454 (*2*).

534. An omission to ask any person whether he is an European British subject, in a case to which sub-section (*2*) of section 454 applies, shall not affect the validity of any proceeding.

Effect of omission to prepare charge.

535. (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(*2*) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Trial by jury of offence triable with assessors.

536. (*1*) If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

Trial with assessors of offence triable by jury.

(*2*) If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

537. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings

proceedings before or during trial or in any inquiry or other proceedings under this Code, or

(*b*) of the want of or any irregularity in any sanction required by section 195, or any irregularity in proceedings taken under section 476, or

(*c*) of the omission to revise any list of jurors or assessors in accordance with section 324, or

(*d*) of any misdirection in any charge to a jury unless such error, omission, irregularity, want or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

Illustration.

A Magistrate being required by law to sign a document signs it by initials only. This is purely an irregularity, and does not affect the validity of the proceeding.

Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

CHAPTER XLVI.

MISCELLANEOUS.

Courts and persons before whom affidavits may be sworn.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk

Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorised to take affidavits or affirmations in Scotland.

Power to summon material witness, or examine person present.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Power to appoint place of imprisonment.

541. (*1*) Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

(*2*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(*3*) When a person is removed to a criminal jail under sub-section (*1*), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or XIV of 1882

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to

be

XIV of 1882.

be discharged under section 341 of the Code of Civil Procedure.

XV of 1869.

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

542. (*1*) Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

(*2*) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Interpreter to be bound to interpret truthfully.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Expenses of complainants and witnesses.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

Power of Court to pay expenses or compensation out of fine.

545. (*1*) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying expenses properly incurred in the prosecution;

(*b*) in

(*b*) in compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

(*2*) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

Payments to be taken into account in subsequent suit.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

Moneys ordered to be paid recoverable as fines.

547. Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine.

Copies of proceedings.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith:

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to military authorities of persons liable to be tried by Court-martial.

549. (*1*) The Governor General in Council may make rules, consistent with this Code and the Army Act or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies, or by Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence

44 & 45 Vict., c. 58.

44 & 45 Vict., c. 58.

of

of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Apprehension of such persons.

(*2*) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers to police to seize property suspected to be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to compel restoration of abducted females.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Compensation to persons groundlessly given in charge in Presidency-town.

553. (*1*) Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation

compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(*2*) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(*3*) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

554. (*1*) With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

Power of other High Courts to make rules for other purposes.

(*2*) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,—

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(*c*) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(*3*) All rules made under this section shall be published in the local official Gazette.

Forms.

24 & 25 Vict., c. 104.

555. Subject to the power conferred by section 553, and by section 15 of the Indian High Courts Act, 1861, the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

Case in which Judge or Magistrate is personally interested.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed to be a party or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Illustration.

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

Practising pleader not to sit as Magistrate in certain Courts.

557. No pleader who practises in the Court of any Magistrate in a presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

558. The

Power to decide language of Courts.

558. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter.

Powers of Governor General in Council and Local Government exerciseable from time to time.

559. All powers conferred by this Code on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Officers concerned in sales not to purchase or bid for property.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Special provisions with respect to offence of rape by a husband.

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer with respect to such an offence as is referred to in sub-section (*1*), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.

First Offenders.

Power to Court to release upon probation of good conduct instead of sentencing to punishment.

562. In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any other offence under the Indian Penal Code punishable with not more than two years' imprisonment before any Court, and no previous conviction is proved against him, if it appears to the Court before whom he is so convicted, that, regard being

XLV of 1860.

being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, and during such period (not exceeding one year) as the Court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour:

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Subdivisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Provision in case of offender failing to observe conditions of his recognizances.

563. (*1*) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(*2*) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

Conditions as to abode of offender.

564. (*1*) The Court, before directing the release of

of an offender under section 562, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(*2*) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897. VIII of 1897.

Previously convicted Offenders.

Order for notifying address of previously convicted offender.

565. (*1*) When any person, having been convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Subdivisional Magistrate, or any Magistrate of the first class specially empowered by the Local Government in this behalf, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of residence after release be notified, as hereinafter provided, for a term not exceeding five years from the date of the expiration of such sentence. XLV of 1860.

(*2*) If such conviction is set aside on appeal or otherwise, such order shall become void.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may make rules to carry out the provisions of this section relating to the notification of residence by released convicts.

(*4*) Any person refusing or neglecting to comply with any rule so made shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code. XLV of 1860.

SCHEDULE I.

SCHEDULE I.

ENACTMENTS REPEALED.

(*See section 2.*)

Year.	No.	Short title or subject.	Extent of repeal.
1875	X	High Courts' Criminal Procedure.	The whole.
1882	X	The Code of Criminal Procedure, 1882.	The whole.
1884	III	The Criminal Procedure Code Amendment Act, 1884.	The whole.
1886	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	Sections 1 to 19 (both inclusive).
1887	V	Amending the Code of Criminal Procedure, 1882.	The whole.
„	XIV	The Indian Marine Act, 1887.	Section 78.
1889	I	The Metal Tokens Act, 1889.	Section 7.
„	V	Abolishing the office of Coroner of Madras.	Section 4, sub-section (*1*).
„	XI	The Lower Burma Courts Act, 1889.	So much of the second schedule as relates to the Code of Criminal Procedure, 1882.
„	XIII	The Cantonments Act, 1889.	So much of the schedule as relates to the Code of Criminal Procedure, 1882.
1891	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	Section 9.
„	IV	Amending the Code of Criminal Procedure, 1882.	The whole.

SCHEDULE I—*concluded.*

Year.	No.	Short title or subject.	Extent of repeal.
1891	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	Sections 2 and 3.
,,	XII	The Repealing and Amending Act, 1891.	So much as relates to the Code of Criminal Procedure, 1882.
1894	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	Sections 1 to 4 (both inclusive).
,,	X	Amending the Code of Criminal Procedure, 1882.	The whole.
1895	IV	Amending sections 366 and 371 of the Code of Criminal Procedure, 1882.	The whole.
1896	XIII	Amending the Code of Criminal Procedure, 1882.	The whole.

SCHEDULE II.

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY

SCHEDULE II.

Tabular Statement of Offences.

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay.

CHAPTER V.—ABETMENT.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

SCHEDULE II—*continued.*

CHAPTER V.—ABETMENT—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence intended to be abetted.	The Court by which the offence abetted is triable.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto . .	Ditto . .	Ditto .	Ditto .	The same punishment as for the offence committed.	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
115	Abetment of an offence, punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter V.—Abetment.)

	If an act which causes harm be done in consequence of the abetment.	Ditto	.	Ditto	.	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	.	Ditto	.	According as the offence abetted is bailable or not.	Ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto	.	Ditto	.	Ditto	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	.	Ditto	.	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	.	Ditto	.	Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER V.—ABETMENT—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
118—*contd.*	If the offence be not committed.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable.	According as the offence abetted is compoundable or not.	Imprisonment of either description for 3 years and fine.	The Court by which the offence abetted is triable.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto . .	Ditto . .	According as the offence abetted is bailable or not.	Ditto .	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto . .	Ditto . .	According as the offence abetted is bailable or not.	Ditto .	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter V.—Abetment. Chapter VI.—Offences against the State.)

120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If the offence be not committed.	Ditto . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Death or transportation for life, and forfeiture of property.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Queen.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter VI.—Offences against the State.*)

SCHEDULE II—*continued.*

CHAPTER VI.—OFFENCES AGAINST THE STATE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
123	Concealing with intent to facilitate a design to wage war.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
124	Assaulting Governor General, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Sedition	Ditto	Ditto	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf.

(Schedule II.—Tabular Statement of Offences. Chapter VI.—Offences against the State.)

125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto	Ditto	Bailable	Ditto	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

SCHEDULE II—*continued.*

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Ditto	Death, or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter VII.—Offences relating to the Army and Navy. Chapter VIII.—Offences against the Public Tranquillity.*)

134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Fine of 500 rupees.	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
144	Joining an unlawful assembly armed with any deadly weapon.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
147	Rioting . . .	Ditto . .	Ditto . .	Ditto	Ditto	Ditto . . .	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto .	The same as for the offence.	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto .	Ditto .	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto . .	Summons .	Bailable .	Ditto.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*concluded.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
153—*contd.*	If not committed	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant	Not bailable.	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto	Summons	Bailable	Ditto	Fine of 1,000 rupees	Presidency Magistrate or Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Fine	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter VIII.—Offences against the Public Tranquillity. Chapter IX.—Offences by or relating to Public Servants.)

156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
159	Or to go armed .	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray .	Shall not arrest without warrant.	Summons .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.

SCHEDULE II—*continued.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
163	Taking a gratification for the exercise of personal influence with a public servant.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto . .	Ditto . .	Ditto	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chapter IX.—Offences by or relating to Public Servants.*)

166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the lawful authority of Public Servants.)

174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If the information required respects the commission of an offence, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the lawful authority of Public Servants.*)

178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Shall not arrest without warrant.	Summons .	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto	Ditto . . .	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale,	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the lawful authority of Public Servants.)

	or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Ditto		Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the lawful authority of Public Servants. Chapter XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II—*continued.*

XLV of 1860.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
	CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.						
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

	Giving or fabricating false evidence in any other case.	Ditto . .	Ditto . .	Ditto . .	Ditto .	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto . .	Ditto . .	Not bailable.	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Death or as above .	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for 7 years or upwards.	Shall not arrest without warrant.	Warrant	Bailable .	Not compoundable.	The same as for the offence.	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	*Ditto* . .	Ditto . .	According as the offence of giving such evidence is bailable or not.	Ditto .	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto . .	Ditto . .	Bailable .	Ditto .	The same as for giving false evidence.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
198	Using as a true certificate one known to be false in a material point.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	The same as for giving false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
200	Using as true any such declaration known to be false.	Ditto . .	Ditto . .	Ditto .	Ditto	Ditto . . .	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

209	False claim in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offences charged be punishable with imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
212—*contd.*	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with imprisonment for 1 year and not for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

	If with imprisonment for less than 10 years.	Ditto	.	Ditto	.	Ditto	.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	.	Ditto	.	Ditto	.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

XLV of 1860.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrate

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Ditto .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.	
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.	
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.	
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.	
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, with or without fine.	Ditto.	

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
221—*contd.*	If punishable with transportation for life or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a	Ditto . .	Ditto . .	Not bailable	Ditto .	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

	Court of Justice if under sentence of death.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Ditto	Summons	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
225—*contd.*	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence.	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If under sentence of death.	Ditto . .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—						
	(*a*) in case of intentional omission or sufferance;	Shall not arrest without warrant.	Ditto .	Bailable .	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(*b*) in case of negligent omission or sufferance.	Ditto . .	Summons	Ditto .	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant .	Ditto .	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
226	Unlawful return from transportation.	Ditto . .	Ditto .	Not bailable.	Ditto	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons .	Not bailable.	Not compoundable.	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto . .	Ditto . .	Bailable .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XII—Offences relating to Coin and Government Stamps.)

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

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SCHEDULE II—*continued*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
235—*contd.*	If Queen's coin	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditto	Ditto	Bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
258	Sale of counterfeit Government stamp.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps. Chapter XIII.—Offences relating to Weights and Measures.)

261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
263A	Fictitious stamps	Ditto	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees	Presidency Magistrate or Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES—*concluded.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
265	Fraudulent use of false weight or measure.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
266	Being in possession of false weights or measures for fraudulent use.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

281	Exhibition of a false light, mark or buoy.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto . .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto . .	Ditto .	Ditto .	Ditto .	Fine of 200 rupees.	Ditto.
284	Dealing with any poisonous substance, so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto . . .	Any Magistrate.
286	So dealing with any explosive substance.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto . . .	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto . . .	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Fine of 200 rupees.	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals. Chapter XV.—Offences relating to Religion.*)

292	Sale, etc., of obscene books, etc.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine, or both.		first or second class. Ditto.
293	Having in possession obscene books, etc., for sale or exhibition.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .		Ditto.
294	Obscene songs . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .		Ditto.
294A	Keeping a lottery office.	Shall not arrest without warrant.	Summons .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine, or both.		Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto . .	Ditto . .	Ditto .	Ditto .	Fine of 1,000 rupees		Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XV.—OFFENCES RELATING TO RELIGION—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
296	Causing a disturbance to an assembly engaged in religious worship.	May arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
297	Trespassing in place of worship or sepulture, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto . .	Ditto .	Compoundable.	Ditto . . .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI. —Offences affecting the Human Body. Of Offences affecting Life.*)

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

302	Murder . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Death, or transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto . .	Ditto . .	Ditto .	Ditto .	Death . . .	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Offences affecting Life.*)

XLV of 1860.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Offences affecting Life—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	Ditto	Ditto	Ditto	Death or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Offences affecting Life. Of the causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.)

	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide.	Ditto	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug	Ditto	Ditto	Not bailable.	Ditto	Ditto	Transportation for life and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.)

XIV of 1860.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
314	Death caused by an act done with intent to cause miscarriage.	Shall not arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
	If act done without woman's consent.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of the causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births. Of Hurt.*)

318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.		Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.		Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.		Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.		Ditto.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—continued.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	May arrest without warrant.	Summons .	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 10 years and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Hurt.)

	anything which is illegal, or which may facilitate the commission of an offence.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Bailable	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons				

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons .	Bailable .	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto . .	Ditto . .	Ditto .	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, etc.	Ditto . .	Ditto . .	Ditto .	Compoundable when permission is given by the Court	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Hurt. Of Wrongful Restraint and Wrongful Confinement.)

338	Causing grievous hurt by an act which endangers human life, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of Wrongful Restraint and Wrongful Confinement.							
341	Wrongfully restraining any person.	May arrest without warrant.	Summons .	Bailable .	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
343	Wrongfully confining for three or more days.	Ditto . .	Ditto . .	Ditto .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Wrongful Restraint and Wrongful Confinement.)

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Wrongful Restraint and Wrongful Confinement—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Criminal Force and Assault.*)

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
		Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Compoundable.	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Not bailable.	Ditto	Any Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Criminal Force and Assault. Of Kidnapping, Abduction, Slavery and Forced Labour.*)

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

XLV of 1860, Section.	2	3	4	5	6	7	8
	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Any Magistrate.
	Of Kidnapping, Abduction, Slavery and Forced Labour.						
363	Kidnapping . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Kidnapping, Abduction, Slavery and Forced Labour.*)

365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years and fine.	Court of Session.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto .	Ditto .	Ditto .	Ditto .	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto .	Bailable .	Ditto .	Ditto . . .	Court of Session.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Kidnapping, Abduction, Slavery and Forced Labour.*)

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Kidnapping, Abduction, Slavery and Forced Labour—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
374	Unlawful compulsory labour.	Ditto . .	Ditto . .	Bailable .	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body. Of Rape. Of Unnatural Offences. Chapter XVII.—Offences against Property. Of Theft.*)

Of Rape.

376	Rape—						
	If the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
	In any other case	May arrest without warrant.	Warrant	Not bailable.	Ditto	Ditto	Ditto.

Of Unnatural Offences.

377	Unnatural offences	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Theft—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
380	Theft in a building, tent or vessel.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Any Magistrate.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Extortion.*)

committing it, or to retaining property taken by it.								
				Of Extortion.				
384	Extortion . .	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life or imprisonment for 10 years.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 10 years and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
388—*contd.*	If the offence threatened be an unnatural offence.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Transportation for life.	Court of Session.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life.	Ditto.

Of Robbery and Dacoity.

392	Robbery . . .	May arrrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Mag-

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Robbery and Dacoity.*)

	If committed on the high way between sunset and sunrise.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto	Ditto	Ditto	Ditto	Transportation for life or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.
396	Murder in dacoity	Ditto	Ditto	Ditto	Ditto	Death, transportation for life or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Robbery and Dacoity—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
399	Making preparation to commit dacoity.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Criminal Misappropriation of Property. Of Criminal Breach of Trust.*)

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
405	If by clerk or person employed by deceased.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
407	Criminal breach of trust by a carrier, wharfinger, etc.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XVII —Offences against Property. Of the Receiving of Stolen Property. Of Cheating.)

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto . .	Ditto .	Ditto .	Ditto .	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto . .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto . .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Cheating.

417	Cheating . . .	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Cheating—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Fraudulent Deeds and Disposition of Property.*)

Of Fraudulent Deeds and Disposition of Property.

421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
426	Mischief . . .	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto . .	Warrant	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto . .	Ditto	Not compoundable.	Ditto . .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Mischief.*)

429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto.
433	Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—continued.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
434	Mischief by destroying or moving, etc., a land-mark fixed by public authority.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Mischief. Of Criminal Trespass.*)

437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Criminal Trespass.

447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Trespass—continued.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
449	House-trespass in order to the commission of an offence punishable with death.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or

(Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property. Of Criminal Trespass.)

452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years and fine.	Ditto.
453	Lurking house-trespass or house-breaking.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years and fine.	Presidency Magistrate, or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If the offence is theft .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
456	Lurking house-trespass or house-breaking by night.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft .	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 14 years and fine.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVII. —Offences against Property. Of Criminal Trespass.*)

458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.	
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.	
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.	
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
465	Forgery . . .	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVIII. —Offences relating to Documents and to Trade or Property Marks.*)

468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto .	Ditto .	Bailable .	Ditto .	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto .	Ditto .	Ditto .	Ditto .	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If the document is one of the description	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprison-	Ditto.

XV of 1860.

(*Schedule II.—Tabular Statement of Offences. Chapter XVIII. —Offences relating to Documents and to Trade or Property Marks. Of Trade and Property Marks.*)

	mentioned in section 467 of the Indian Penal Code.	Ditto	Ditto	Ditto	Ditto	Ditto	ment of either description for 7 years and fine.	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.	
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.	
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.	
477A	Falsification of accounts.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.	
	Of Trade and Property Marks.							
482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.	

Schedule II.—Tabular Statement of Offences. Chapter XVIII. —Offences relating to Documents and to Trade or Property Marks. Of Trade and Property Marks.)

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued.*

Of Trade and Property Marks—concluded.

XLV of 1860.

Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description	Presidency Magistrate

(*Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks. Of Trade and Property Marks. Chapter XIX.—Criminal Breach of Contracts of Service.*)

	counterfeit property or trade-mark.								
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons .	Bailable.	Compoundable.	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chapter XIX. —Criminal Breach of Contracts of Service. Chapter XX.— Offences relating to Marriage.*)

XLV of 1860.

SCHEDULE II—*continued.*

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
49	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chapter XX.—Offences relating to Marriage.)

	fully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	rant.						
494	Marrying again during the lifetime of a husband or wife.	Ditto .	Ditto .	Bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.	
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto .	Ditto .	Not bailable.	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.	
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto .	Ditto .	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.	
497	Adultery . . .	Ditto .	Ditto .	Bailable	Compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.	

SCHEDULE II—*continued.*

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE—*concluded.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Shall not arrest without warrant.	Warrant .	Bailable .	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—DEFAMATION.

500	Defamation . .	Shall not arrest without warrant.	Warrant .	Bailable .	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XXI.—Defamation. Chapter XXII.—Criminal Intimidation, Insult and Annoyance.*)

501	Printing or engraving matter knowing it to be defamatory.	Ditto . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Ditto . .	Ditto . .	Bailable .	Not bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Ditto . .	Ditto . .	Bailable .	Not bailable.	Not compoundable.	Ditto . . .	Presidency Magistrate or Magistrate of the first class.
506	Criminal intimidation.	Ditto . .	Ditto . .	Bailable .	Bailable .	Compoundable.	Ditto . . .	Ditto.
	If threat be to cause death or grievous hurt, etc.	Ditto . .	Ditto . .	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XXII. —Criminal Intimidation, Insult and Annoyance.)

SCHEDULE II—*continued.*

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years in addition to the punishment under above section.	Court of Session, Presidency Magistrate or Magistrate of the first class.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation or imprisonment for 7 years or upwards.	May arrest without warrant,	Warrant .	Not bailable.	Not compoundable.	.....	Court of Session.
	If punishable with imprisonment for 3 years and upwards but less than 7.	Ditto . .	Ditto . .	Ditto . Except in cases under the Indian Arms Act, 1878, section 19, which shall be bailable.	Ditto .	.....	Court of Session, Presidency Magistrate or Magistrate of the first class.

XI of 1878.

(*Schedule II.—Tabular Statement of Offences. Offences against other Laws.*)

SCHEDULE II—*concluded.*

OFFENCES AGAINST OTHER LAWS—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If punishable with imprisonment for 1 year and upwards, but less than 3 years.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	.....	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If punishable with imprisonment for less than 1 year, or with fine only.	Ditto . .	Ditto . .	Ditto .	Ditto .	.....	Any Magistrate.

SCHEDULE III.

(*See section 36.*)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

(1) Power to arrest or direct the arrest, and to commit to custody, a person committing an offence in his presence, section 64.
(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.
(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.
(4) Power to issue proclamations in cases judicially before him, section 87.
(5) Power to attach and sell property in cases judicially before him, section 88.
(6) Power to restore attached property, section 89.
(7) Power to require search to be made for letters and telegrams, section 95.
(8) Power to issue search-warrant, section 96.
(9) Power to endorse a search-warrant and order delivery of thing found, section 99.
(10) Power to command unlawful assembly to disperse, section 127.
(11) Power to use civil force to disperse unlawful assembly, section 128.
(12) Power to require military force to be used to disperse unlawful assembly, section 130.
(13) Power to record statements or confessions during a police-investigation, section 164.
(14) Power to authorise detention of a person during a police-investigation, section 167.
(15) Power to detain an offender found in Court, section 351.
(16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 445.
(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (*2*).
(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514.
(19) Power to make order as to disposal of property, section 517.
(20) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of the third class.
(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

(3) Power

(*Schedule III.—Ordinary Powers of Provincial Magistrates.*)

(3) Power to postpone issue of process, section 202.
(4) Power to order destruction of libellous and other matter, section 521.

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.
(2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
(4) Power to require security to keep the peace, section 107.
(5) Power to require security for good behaviour, section 109.
(6) Power to discharge sureties, section 126.
(7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.
(8) Power to commit for trial, section 206.
(9) Power to stop proceedings when no complainant, section 249.
(10) Power to make orders of maintenance, sections 488 and 489.
(11) Power to take evidence on commission, section 503.
(12) Power to recover penalty on forfeited bond, section 514.
(13) Power to make order as to first offenders, section 562.

IV.—Ordinary Powers of a Subdivisional Magistrate.

(1) The ordinary powers of a Magistrate of the first class.
(2) Power to direct warrants to landholders, section 78.
(3) Power to require security for good behaviour, section 110.
(4) Power to make orders as to local nuisances, section 133.
(5) Power to make orders prohibiting repetitions of nuisances, section 143.
(6) Power to make orders under section 144.
(7) Power to depute Subordinate Magistrate to make local inquiry, section 148.
(8) Power to order police-investigation into cognizable case, section 156.
(9) Power to receive report of police-officer and pass order, section 173.
(10) Power to hold inquests, section 174.
(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
(12) Power to entertain complaints, section 190.
(13) Power to receive police-reports, section 190.
(14) Power to entertain cases without complaint, section 190.
(15) Power to transfer cases to a Subordinate Magistrate, section 192.
(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
(17) Power to forward record of inferior Court to District Magistrate, section 435 (2).
(18) Power to sell property alleged or suspected to have been stolen, etc., section 524.
(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.
(20) Power to order released convicts to notify residence, section 565.

V.—Ordinary

(Schedule III.—Ordinary Powers of Provincial Magistrates. Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.)

SCHEDULE III—*continued.*

V.—Ordinary Powers of a District Magistrate.

(1) The ordinary powers of a Subdivisional Magistrate.
(2) Power to require delivery of letters, telegrams, etc., section 95.
(3) Power to issue search-warrants for documents in custody of postal or telegraph authorities, section 96.
(4) Power to require security for good behaviour in case of sedition, section 108.
(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
(6) Power to cancel bond for keeping the peace, section 125.
(7) Power to try summarily, section 260.
(8) Power to quash convictions in certain cases, section 350.
(9) Power to hear appeals from orders requiring security for good behaviour, section 406.
(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
(11) Power to call for records, section 435.
(12) Power to order commitment, section 436.
(13) Power to order inquiry into complaint dismissed or case of accused discharged, section 437.
(14) Power to report case to High Court, section 438.
(15) Power to try European British subjects, section 443.
(16) Power to sentence European British subject to more than three months' imprisonment or one thousand rupees fine, or both, section 446.
(17) Power to appoint person to be public prosecutor in particular case, section 492 (*2*).
(18) Power to issue commission for examination of witness, sections 503, 506.
(19) Power to hear appeals from or revise orders passed under section 514, section 515.
(20) Power to compel restoration of abducted female, section 552.

SCHEDULE IV.

(See sections 37 and 38.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	(1) Power to require security for good behaviour in case of sedition, section 108: (2) Power to require security for good behaviour, section 110: (3) Power to make orders as to local nuisances, section 133: (4) Power to make orders prohibiting repetitions of nuisances, section 143:

(5) Power

(Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.)

SCHEDULE IV—*continued.*

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED—*concluded.*

BY THE LOCAL GOVERNMENT—*concluded.*

(5) Power to make orders under section 144:
(6) Power to hold inquests, section 174:
(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186:
(8) Power to take cognizance of offences upon complaint, section 190:
(9) Power to take cognizance of offences upon police-reports, section 190:
(10) Power to take cognizance of offences without complaint, section 190:
(11) Power to try summarily, section 260:
(12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407:
(13) Power to sell property alleged or suspected to have been stolen, etc., section 524:
(14) Power to order released convicts to notify residence, section 565:
(15) Power to try cases under section 124A of the Indian Penal Code.

BY THE DISTRICT MAGISTRATE.

(1) Power to make orders prohibiting repetitions of nuisances, section 143:
(2) Power to make orders under section 144:
(3) Power to hold inquests, section 174:
(4) Power to take cognizance of offences upon complaint, section 190:
(5) Power to take cognizance of offences upon police-reports, section 190:
(6) Power to transfer cases, section 192.

POWERS

(Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.)

SCHEDULE IV—*continued.*

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	By the Local Government.	(1) Power to pass sentences of whipping, section 32: (2) Power to make orders prohibiting repetitions of nuisances, section 143: (3) Power to make orders under section 144: (4) Power to hold inquests, section 174: (5) Power to take cognizance of offences upon complaint, section 190: (6) Power to take cognizance of offences upon police-reports, section 190: (7) Power to take cognizance of offences without complaint, section 190: (8) Power to commit for trial, section 206: (9) Power to make order as to first offenders, section 562.
	By the District Magistrate.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190. (5) Power to take cognizance of offences upon police-reports, section 190.
POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	By the Local Government.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police-reports, section 190: (6) Power to commit for trial, section 206.
	By the District Magistrate.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power

(*Schedule IV.—Additional Powers with which Provincial Magistrates may be invested. Schedule V.—Forms.*)

SCHEDULE IV—*concluded.*

POWERS WITH WHICH A MAGISTRATE OF *THE THIRD* CLASS MAY BE INVESTED —*concluded.*	BY THE DISTRICT MAGISTRATE—*concluded.*	(2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190. (5) Power to take cognizance of offences upon police-reports, section 190.
POWERS WITH WHICH A SUBDIVISIONAL MAGISTRATE MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	Power to call for records, section 435.

SCHEDULE V.

(*See section 554.*)

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section 68.*)

To of .

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (*Magistrate*) of , on the day of . Herein fail not.

Dated this day of , 18 .

(*Seal.*)

(*Signature.*)

II.—WARRANT OF ARREST.

(*See section 75.*)

To (*name and designation of the person or persons who is or are to execute the warrant.*)

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of , 18 .

(*Seal.*)

(*Signature.*)

(*See*

(*Schedule V.—Forms.*)

(*See section 76.*)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of , 18 .

(*Signature.*)

III.—Bond and bail-bond after arrest under a Warrant.

(*See section 86.*)

I, (*name*), of , being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit, to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

I do hereby declare myself surety for the abovenamed of , that he shall attend before in the Court of on the day of next to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18 .

(*Signature.*)

IV.—Proclamation requiring the Appearance of a Person accused.

(*See section 87.*)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court (*or* before me) to answer the said complaint within days from this date.

Dated this day of , 18 .

(*Seal.*)

(*Signature.*)

V.—Proclamation

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(*See section 87.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock, to be examined touching , the offence complained of.

Dated this day of , 18 .

(*Seal.*)

(*Signature.*)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(*See section 88.*)

To the Police-officer in charge of the Police-station at .

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant); and thereupon a Proclamation was duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorise and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*)

(*Signature.*)

ORDER.

(*Schedule V.—Forms.*)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(*See section 88.*)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is* concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or* town) of , in the District of , *viz.*, , and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*)

(*Signature.*)

ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(*See section 88.*)

To the Deputy Commissioner of the District of .

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he has not appeared; and whereas the said is possessed of certain land paying revenue to Government in the village (*or* town) of in the district of ;

You are hereby authorised and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court,

Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(*See section 90.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (*name*), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(*See section 96.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence);

This is to authorise and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(*See section 98.*)

To (*name and designation of a Police-officer above the rank of a Constable*).

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other*

other place) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section, state the purpose in the words of the section*);

This is to authorise and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined to a part, specify the part clearly*), and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, *as the case may be*)—[Add (*when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

X.—Bond to keep the Peace.

(*See section 107.*)

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of
I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term and, in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18 .

(*Signature.*)

XI.—Bond for Good Behaviour.

(*See sections 108, 109 and 110.*)

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her subjects for the term of (*state the period*), I hereby bind myself to be of good behaviour to Her Majesty and to all Her subjects during the said term; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees

Dated this day of , 18 .

(*Signature.*)

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

XII.—Summons

(*Schedule V.—Forms.*)

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(*See section 114.*)

To of .

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorised agent) at the Office of the Magistrate of on the day of , 18 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add*, and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees (each *if more than one*)], that you will keep the peace for the term of .

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name and address*) appeared before me in person (*or* by his authorised agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two sureties each in rupees), that he, the said (*name*), would keep the peace for the period of months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS

(*Schedule V.—Forms.*)

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, and that he is unable to give any satisfactory account of himself) ;

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* housebreaker, etc., *as the case may be*) ;

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See sections 123 and 124.*)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of and has since duly given security under section of the Code of Criminal Procedure ;

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community ;

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XVI.—ORDER

(*Schedule V.—Forms.*)

XVI.—Order for the Removal of Nuisances.

(*See section 133.*)

To (*name, description and address*).

Whereas it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc., (*describe the road or public place*), by, etc., (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists;

or

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place;

or

Whereas it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced);

or

Whereas, etc., etc. (*as the case may be*);

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.;

or

I do hereby direct and require you, etc., etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XVII.—Magistrate's

(*Schedule V.—Forms.*)

XVII.—Magistrate's Order constituting a Jury.

(*See section 138.*)

Whereas on the day of , 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a petition bearing date the day of , for an order appointing a Jury to try whether the said recited order is reasonable and proper; I do hereby appoint (*the names, etc., of the five or more Jurors*) to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my office at

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XVIII.—Magistrate's Notice and Peremptory Order after the Finding by a Jury.

(*See section 140.*)

To (*name, description and address*).

I hereby give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto. XLV of 1860.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIX.—Injunction to provide against Imminent Danger pending Inquiry by Jury.

(*See section 142.*)

To (*name, description and address*).

Whereas the inquiry by a Jury appointed to try whether my order issued on the day of , 18 , is reasonable and proper

is

is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(*See section 143.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc. (*state the proper recital, guided by* Form No. XVI or Form No. XXI, *as the case may be*);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(*See section 144.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, etc. (*as the case may be*), and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., etc., (*as the case may be*);

I do

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE.

(*See section 145.*)

IT appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true;

I do decide and declare that he is (*or* they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or* their) possession in the meantime.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(*See section 146.*)

To the Police-officer in charge of the Police-station at [*or*, To the Collector of].

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*)

pute) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [*or* I am unable to satisfy myself as to which of the said parties was in possession as aforesaid];

This is to authorise and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section 147.*)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*), and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or if the use is enjoyable only at particular seasons, say* "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*) or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(*See section 169.*)

I, (*name*), of , being charged with the offence of and after inquiry required to appear before the Magistrate of ,

or

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18 .

(*Signature.*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18 .

(*Signature.*)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(*See section 170.*)

I, (*name*), of (*place*), do hereby bind myself to attend at in the Court of , at o'clock on the day of next, and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of , 18 .

(*Signature.*)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(*See section 218.*)

THE Magistrate of hereby gives notice that he has committed one for trial at the next Sessions; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, etc. (*state the offence as in the charge*).

Dated this day of , 18 .

(*Signature.*)

XXVIII.—CHARGES

XXVIII.—CHARGES.

(*See sections 221, 222, 223.*)

(I)—CHARGES WITH ONE HEAD.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows:—

(*b*) that you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court].

On Penal Code, section 121.

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*)]:—

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 124.

(3) That you, being a public servant in the Department directly accepted from [*state the name*], for another party [*state the name*], a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 161.

(4) That you, on or about the day of , at , did [*or* omitted to do, *as the case may be*] , such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 166.

(5) That you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 193.

(6) That

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 304.

(7) That you, on or about the day of , at abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 306.

(8) That you, on or about the day of , at voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 325.

(9) That you, on or about the day of , at , robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 392.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 395.

[*In cases tried by Magistrates substitute* "within my cognizance" *for* "within the cognizance of the Court of Session," and in (*c*) *omit* "by the said Court."]

(II)—Charges with two or more Heads.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows:—

(*b*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 241.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(*c*) And

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*)]:—

(2) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(3) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(4) That you, on or about the day of , at , in the course of the inquiry into , before , stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Alternative charges on section 193.

[*In cases*

(*Schedule V.—Forms.*)

[*In cases tried by Magistrates substitute* "within my cognizance" *for* "within the cognizance of the Court of Session" *and in* (*c*) *omit* "by the said Court".]

(III).—CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I, (*name and office of Magistrate, etc.*), hereby charge you (*name of accused person*) as follows:—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* { High Court / Magistrate } *as the case may be*].

And you, the said (*name of accused*), stand further charged that you before the committing of the said offence, that is to say, on the day of , had been convicted by the (*state Court by which conviction was had*) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(*See sections 245 and 258.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 18 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (*or* sections) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXX.—WARRANT

(*Schedule V.—Forms.*)

XXX.—Warrant of Imprisonment on Failure to recover Amends by Distress.

(*See section 250.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXI.—Summons to Witness.

(*See sections 68 and 252.*)

To of .

Whereas complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*), and it appears to me that you are likely to give material evidence for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXII.—Precept

(*Schedule V.—Forms.*)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(*See section 326.*)

To the District Magistrate of .

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors and Assessors.*)

Given under my hand and the seal of the Court this day of , 18 .

(*Seal.*) (*Signature.*)

XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(*See section 328.*)

To (*name*) of (*place*).

PURSUANT to a precept directed to me by the Court of Session of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under my hand and the seal of office, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(*See section 374.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at the Session held before me on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXV.—WARRANT

(*Schedule V.—Forms.*)

XXXV.—Warrant of Execution on a Sentence of Death.

(*See section 381.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorise and require you, the said Superintendent (*or* Keeper), to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVI.—Warrant after a Commutation of a Sentence.

(*See sections 381 and 382.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*);

This is to authorise and require you, the said Superintendent (*or* Keeper), safely to keep the said (*prisoner's name*) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVII.—Warrant to levy a Fine by Distress and Sale.

(*See section 386.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

Whereas (*name and description of the offender*) was on the day of 18 , convicted before me of the offence of (*mention the offence concisely*)

concisely), and sentenced to pay a fine of rupees
and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVIII.—Warrant of Commitment in certain Cases of Contempt when a Fine is imposed.

(*See section 480.*)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*);

This is to authorise and require you, the Superintendent (*or* Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXIX.—Magistrate's or Judge's Warrant of Commitment of Witness refusing to answer.

(*See section 485.*)

To (*name and designation of officer of Court*).

Whereas (*name and description*), being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*);

This

This is to authorise and require you to take the said (*name*) into custody, and him safely to keep in your custody for the space of days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(*See section 488.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [*or* his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or* himself)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees : and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of : And thereupon an order was made adjudging him to undergo simple (*or* rigorous) imprisonment in the said jail for the period of ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody in the said jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(*See section 488.*)

To (*name and designation of the Police-officer or other person to execute the warrant*).

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the

the district of , and if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(*See sections 496 and 499.*)

I, (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*), charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and, in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See section 500.*)

To the Superintendent (*or* Keeper) of the Jail at
(*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

This

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section 514.*)

To the Police-officer in charge of the Police-station at .

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorise and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(*See section 514.*)

To of .

WHEREAS on the day of , 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVI.—NOTICE

(*Schedule V.—Forms.*)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To of .

WHEREAS on the day of , 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(*See section 514.*)

To of .

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*);

This is to authorise and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should

should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the civil jail for (*specify the period*);

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name, description and address*).

WHEREAS on the day of , 18 , you entered into a bond not to commit, etc. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name, and designation of Police-officer*), at the Police-station of

WHEREAS (*name and description*) did, on the day of , 18 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

LI.—WARRANT

(*Schedule V.—Forms.*)

LI.—Warrant of Imprisonment on Breach of a Bond to keep the Peace.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

Whereas proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas the said (*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the civil jail for the period of (*term of imprisonment*);

This is to authorise and require you, the said Superintendent (*or* Keeper) of the said civil jail, to receive the (*name*) into your custody, together with this warrant, and him safely to keep in the said jail, for the said period of (*term of imprisonment*); and to return that warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

LII.—Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour.

(*See section 514.*)

To the Police-officer in charge of the Police-station at .

Whereas (*name, description and address*) did, on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of whereby the said bond has been forfeited; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

LIII.—Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

Whereas (*name, description and address*) did, on the day of 18

18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the civil jail for the period of (*term of imprisonment*);

This is to authorise and require you, the Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

THE INDIAN POST OFFICE ACT, 1898.

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ACT No. VI OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 22nd March, 1898.*

An Act to consolidate and amend the Law relating to the Post Office in India.

WHEREAS it is expedient to consolidate and amend the law relating to the Post Office in India; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent, application and commencement.

1. (*1*) This Act may be called the Indian Post Office Act, 1898.

(*2*) It extends to the whole of British India, inclusive of Upper Burma, British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and it applies also to—

(*a*) all Native Indian subjects of Her Majesty in any place without and beyond British India;

(*b*) all other British subjects within the territories of any Native Prince or Chief in India; and

(*c*) all servants of the Queen, whether British subjects or not, within the territories of any Native Prince or Chief in India.

(*3*) It shall come into force on the first day of July, 1898.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Director General" means the Director General of the Post Office of India:

(*b*) the

(*b*) the expression "inland," used in relation to a postal article, means—

(i) posted in British India and addressed to any place in British India or to any place for which a post office is established by the Governor General in Council beyond the limits of British India ; or

(ii) posted at any post office established by the Governor General in Council beyond the limits of British India and addressed to any place for which any such post office is established or to any place in British India :

(*c*) the expression "mail bag" includes a bag, box, parcel or any other envelop or covering in which postal articles in course of transmission by post are conveyed, whether it does or does not contain any such article :

(*d*) the expression "mail ship" means a ship employed for carrying mails, pursuant to contract or continuing arrangement, by the Government of India or Her Majesty's Government or the Government of any British possession or foreign country :

(*e*) the expression "officer of the Post Office" includes any person employed in any business of the Post Office or on behalf of the Post Office :

(*f*) the expression "postage" means the duty chargeable for the transmission by post of postal articles.

(*g*) the expression "postage stamp" means any stamp provided by the Governor General in Council for denoting postage or other fees or sums payable in respect of postal articles under this Act, and includes adhesive postage stamps and stamps printed, embossed, impressed

impressed or otherwise indicated on any envelop, wrapper, postcard or other article;

(*h*) the expression "post office" includes every house, building, room, carriage or place used for the purposes of the Post Office, and every letter-box provided by the Post Office for the reception of postal articles;

(*i*) the expression "postal article" includes a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post;

(*j*) the expression "Post Master General" includes a Deputy Post Master General or other officer exercising the powers of a Post Master General: and

(*k*) the expression "Post Office" means the department presided over by the Director General.

Meanings of "in course of transmission by post" and "delivery."

3. For the purposes of this Act,—

(*a*) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII:

(*b*) the delivery of a postal article of any description to a postman or other person authorized to receive postal articles of that description for the post shall deemed to be a delivery to a post office: and

(*c*) the delivery of a postal article at the house or office of the addressee, or to the addressee or his servant or agent or other person considered to be authorized to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

CHAPTER II.

CHAPTER II.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

Exclusive privilege of conveying letters reserved to the Government.

4. (*1*) Wherever within British India posts or postal communications are established by the Governor General in Council, the Governor General in Council shall have the exclusive privilege of conveying by post, from one place to another, all letters except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases that is to say:—

(*a*) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them;

(*b*) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose; and

(*c*) letters solely concerning goods or property sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them:

Provided that nothing in this section shall authorize any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by post.

(*2*) For the purposes of this section and section 5, the expression "letters" includes postcards.

Certain persons expressly

5. Wherever within British India posts or postal communications are established by the Governor General

(*Chapter II.—Privilege and Protection of the Government.—Section 6. Chapter III.—Postage. —Section 7.*)

forbidden to convey letters.

General in Council, the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward on other profit or advantage for so doing, that is to say :—

(*a*) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages ; and

(*b*) owners and masters of vessels sailing or passing on any river or canal in British India, or between any ports or places in British India, and their servants or agents, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under Chapter VIII.

Exemption from liability for loss, misdelivery, delay or damage.

6. The Secretary of State for India in Council shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the Governor General in Council as hereinafter provided ; and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

CHAPTER III.

POSTAGE.

Power to fix rates of inland postage.

7. (*1*) The Governor General in Council may, by notification in the Gazette of India, fix the rates of postage and other sums to be charged in respect of postal

postal articles sent by the inland post under this Act, and may make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged:

Provided that the highest rate of postage, when prepaid, shall not exceed the rate set forth for each class of postal articles in the first schedule.

(*2*) Unless and until such notification as aforesaid is issued, the rates set forth in the said schedule shall be the rates chargeable under this Act.

(*3*) The Governor General in Council may, by notification in the Gazette of India, declare what packets may be sent by the inland post as book, pattern and sample packets within the meaning of this Act.

Power to make rules as to payment of postage and fees in certain cases.

8. The Governor General in Council may, by rule,—

(*a*) require the prepayment of postage on inland postal articles or any class of inland postal articles, and prescribe the manner in which prepayment shall be made;

(*b*) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid;

(*c*) provide for the redirection of postal articles and the transmission by post of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules; and

(*d*) prescribe the fees to be charged for the "express delivery" of postal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

Explanation.—"Express delivery" means delivery by a special messenger or conveyance.

Power to make rules as to registered newspapers.

9. (*1*) The Governor General in Council may make rules providing for the registration of newspapers

papers for transmission by inland post as registered newspapers.

(*2*) For the purpose of such registration, every publication, consisting wholly or in great part of political or other news, or of articles relating thereto or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely:—

(*a*) that it is published in numbers at intervals of not more than thirty-one days; and

(*b*) that it has a *bonâ fide* list of subscribers.

(*3*) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper:

Provided that no such extra or supplement shall be so deemed unless it consists wholly or in great part of matter like that of the newspaper and has the title and date of publication of the newspaper printed at the top of each page.

Explanation.—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by the inland post.

Power to declare rates of foreign postage.

10. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession or foreign country, for the transmission by post of postal articles between British India and the United Kingdom or such possession or country, the Governor General in Council may, in conformity with the provisions of such arrangements, declare what postage rates and other sums shall be charged in respect of such postal articles, and may make rules as to the scale of weight, terms and conditions subject to which the rates so declared shall be charged.

(*2*) Unless and until such declaration as aforesaid is made, the existing rates and regulations shall continue in force.

11. (*1*) The

(*Chapter III.—Postage.—Sections 11-14.*)

Liability for payment of postage.

11. (*1*) The addressee of a postal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened:

Provided that, if any such postal article appears to the satisfaction of the Post Master General to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(*2*) If any postal article on which postage or any other sum chargeable under this Act is due, is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

Recovery of postage and other sums due in respect of postal articles.

12. If any person refuses to pay any postage or other sum due from him under this Act in respect of any postal article, the sum so due may, on application made by an officer of the Post Office authorized in this behalf by the written order of the Post Master General, be recovered for the use of the Post Office from the person so refusing, as if it were a fine imposed under this Act, by any Magistrate having jurisdiction where that person may for the time being be resident; and the Post Master General may further direct that any other postal article, not being on Her Majesty's service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

Customs-duty paid by the Post Office to be recoverable as postage.

13. When a postal article, on which any duty of customs is payable, has been received by post from any place beyond the limits of British India, and the duty has been paid by the postal authorities at any customs-port or elsewhere, the amount of the duty shall be recoverable as if it were postage due under this Act.

Post Office marks *primâ facie* postage

14. In every proceeding for the recovery of any

(*Chapter III.—Postage.—Section 15. Chapter IV. —Postage Stamps.—Section 16.*)

evidence of certain facts denoted.

postage or other sum alleged to be due under this Act in respect of a postal article,—

(*a*) the production of the postal article, having thereon the official mark of the Post Office denoting that the article has been refused, or that the adressee is dead or cannot be found, shall be *primâ facie* evidence of the fact so denoted, and

(*b*) the person from whom the postal article purports to have come, shall, until the contrary is proved, be deemed to be the sender thereof.

Official mark to be evidence of amount of postage.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the Post Office of British India or to the Post Office of the United Kingdom or of any British possession or foreign country, shall be *primâ facie* evidence that the sum denoted as aforesaid is so due.

CHAPTER IV.

POSTAGE STAMPS.

Provision of postage stamps and power to make rules as to them.

16. (*1*) The Governor General in Council shall cause postage stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Act.

(*2*) The Governor General in Council may make rules as to the supply, sale and use of postage stamps.

(3) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) fix the price at which postage stamps shall be sold;

(*b*) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Act;

(*c*) prescribe

(*Chapter IV.—Postage Stamps.—Section 17. Chapter V.—Conditions of Transmission of Postal Articles.—Section 18.*)

(*c*) prescribe the conditions with regard to perforation, defacement and all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums;

(*d*) regulate the custody, supply and sale of postage-stamps;

(*e*) declare the persons by whom and the terms and conditions subject to which postage stamps may be sold; and

(*f*) prescribe the duties and remuneration of persons selling postage stamps.

Postage stamps to be deemed to be stamps for the purpose of revenue.

17. Postage stamps provided under section 16 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the XLV of 1860. Indian Penal Code, and, subject to the other provisions of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of postal articles, except where the Governor General in Council directs that prepayment shall be made in some other way.

CHAPTER V.

Conditions of Transmission of Postal Articles.

Redelivery to sender of postal article in course of transmission by post.

18. (*1*) The Governor General in Council may, by rule, provide for the redelivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any postal article in course of transmission by post.

(*2*) Save as provided by any rules that may be made under sub-section (*1*), the sender shall not be entitled to recall a postal article in course of transmission by post.

19. (*1*) Except

(Chapter V.— Conditions of Transmission of Postal Articles.—Sections 19-21.)

Transmission by post of anything injurious prohibited.

19. (*1*) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the Post Office.

(*2*) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the Post Office.

Transmission by post of anything indecent, etc. prohibited.

20. No person shall send by post—

(*a*) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or

(*b*) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

Power to make rules as to transmission by post of postal articles.

21. (*1*) The Governor General in Council may make rules as to the transmission by post of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the granting receipts for, and the granting and obtaining certificates of posting and delivery of, postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates ; and

(*b*) regulate covers, form, dimensions, maximum weight and enclosures, and the use of postal articles, other than letters, for making communications.

(*3*) Postal

(*Chapter V.—Conditions of Transmission of Postal Articles.—Sections 22-23.*)

(*3*) Postal articles shall be posted and delivered at such times and in such manner as the Director General may, by order, from time to time appoint.

Power to postpone despatch or delivery of certain postal articles.

22. (*1*) Where the despatch or delivery from a post office of letters would be delayed by the despatch or delivery therefrom at the same time of book, pattern or sample packets and parcels, or any of them, such packets or parcels, or any of them, may, subject to such rules as the Governor General in Council may make in this behalf, be detained in the Post Office so long as may be necessary.

(*2*) Where separate parcel posts are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Post Office for that purpose.

Power to deal with postal articles posted in contravention of Act.

23. (*1*) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as the Governor General in Council may, by rule, direct.

(*2*) Any officer in charge of a post office or authorized by the Post Master General in this behalf may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by post, which he suspects to have been sent by post in contravention of section 21 or of any of the provisions of this Act relating to postage.

(*3*) Notwithstanding anything in sub-section (*1*)—

(*a*) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed: and

(*b*) any postal article sent by post in contravention of the provisions of section 20 may, under

under the authority of the Post Master General, be destroyed.

Power to deal with postal articles containing goods contraband or liable to duty.

24. Where a postal article, suspected to contain any contraband goods or anything liable to duty, is received for delivery at a post office, the officer in charge of the post office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office, and shall in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article:

Provided, first, that, if the Director General so directs in the case of any post office or class of post offices, the officer in charge of the post office shall call in two respectable persons as witnesses before he opens a postal article in the absence of the addressee or his agent:

Provided, secondly, that in all cases a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the postal article and the circumstances connected therewith shall be immediately reported to the Post Master General:

Provided, thirdly, that nothing in this section shall prevent the detention of parcels, received by post from any place beyond the limits of British India at the customs-port or other place at which they are received, and the opening of parcels so received by the Customs-authorities for the purpose of levying any duty of customs.

Power to intercept notified goods during transmission by post.

25. Where a notification has been published under section 19 of the Sea Customs Act, 1878, in respect of any goods of any specified description, any officer of the Post Office empowered in this behalf by the Governor

VIII of 1878.

(*Chapter V.—Conditions of Transmission of Postal Articles.—Sections 26-27.*)

Governor General in Council may search, or cause search to be made, for any such goods in course of transmission by post, and shall deliver all such goods found to such officer as the Governor General in Council may appoint in this behalf, and such goods may be disposed of in such manner as the Governor General in Council may direct.

Power to intercept postal articles for public good.

26. (*1*) On the occurrence of any public emergency, or in the interest of the public safety or tranquillity, the Governor General in Council, or a Local Government, or any officer specially authorized in this behalf by the Governor General in Council, may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained, or shall be delivered to the Government or to an officer therof mentioned in the order, to be disposed of in such manner as the Governor General in Council may direct.

(*2*) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (*1*) was in the interest of the public safety or tranquillity, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to deal with postal articles from abroad bearing fictitious or previously used stamps.

27. (*1*) Where a postal article is received by post from any place beyond the limits of British India—

(*a*) bearing a fictitious postage stamp, that is to say, any facsimile or imitation or representation of a postage stamp, or

(*b*) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article,

the officer in charge of the post office at which the postal article is received, shall send a notice to the addressee

addressee inviting him to attend, either in person or by agent, within a specified time at the post office to receive delivery of the postal article.

(*2*) If the addressee or his agent attends at the post office within the time specified in the notice and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article and to re-deliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp, or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(*3*) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to re-deliver the postal article or portion thereof as required by sub-section (*2*), the postal article shall not be delivered to him, but shall be disposed of in such manner as the Governor General in Council may direct.

Explanation.—For the purposes of this section, the expression "postage stamp" includes any postage stamp for denoting any rate or duty of postage of any part of Her Majesty's dominions or of any Native State or foreign country.

CHAPTER VI.

REGISTRATION, INSURANCE AND VALUE-PAYABLE POST.

Registration of postal articles.

28. The sender of a Postal article may, subject to the other provisions of this Act, have the article registered at the post office at which it is posted, and require

require a receipt therefor ; and the Governor General in Council may, by notification in the Gazette of India, direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles.

Power to make rules as to registration.

29. (*1*) The Governor General in Council may make rules as to the registration of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare in what cases registration shall be required;

(*b*) prescribe the manner in which the fees for registration shall be paid ; and

(*c*) direct that twice the fee for registration shall be levied on the delivery of a postal article required to be registered on which the fee for registration has not been prepaid.

(*3*) Postal articles made over to the Post Office for the purpose of being registered, shall be delivered, when registered, at such times and in such manner as the Director General may, by order, from time to time appoint.

Insurance of postal articles.

30. The Governor General in Council may, by notification in the Gazette of India, direct—

(*a*) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against the risk of loss or damage in course of transmission by post, and that a receipt therefor shall be granted to the person posting it ; and

(*b*) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification

notification shall be paid on account of the insurance of postal articles.

Power to require insurance of postal articles.

31. The Governor General in Council may, by notification in the Gazette of India, declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification :

Provided that the levy of such special fee as aforesaid shall not impose any liability upon the Secretary of State for India in Council in respect of the postal article.

Power to make rules as to insurance.

32. (*1*) The Governor General in Council may make rules as to the insurance of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be insured under section 30;

(*b*) fix the limit of the amount for which postal articles may be insured ; and

(*c*) prescribe the manner in which the fees for insurance shall be paid.

(*3*) Postal articles made over to the Post Office for the purpose of being insured, shall be delivered, when insured, at such places and times and in such manner as the Director General may, by order, from time to time appoint.

Liability in respect of postal articles insured.

33. Subject to such conditions and restrictions as the Governor General in Council may, by rule, prescribe, the Secretary of State for India in Council shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender thereof for the loss of the postal article or its

its contents, or for any damage caused to it in course of transmission by post:

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused.

Transmission by post of value-payable postal articles.

34. The Governor General in Council may, by notification in the Gazette of India, direct that, subject to the other provisions of this Act and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender:

Provided that the Secretary of State for India in Council shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

Explanation.—Postal articles sent in accordance with the provisions of this section may be described as "value-payable" postal articles.

Power to make rules as to value-payable postal articles.

35. (*1*) The Governor General in Council may make rules as to the transmission by post of value-payable postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be sent as value-payable postal articles:

(*b*) direct that no postal article shall be so sent unless the sender declares that it is sent in execution of a *bonâ fide* order received by him;

(*c*) limit the value to be recovered on the delivery of any value-payable postal article; and

(*d*) prescribe

(*Chapter VI.—Registration, Insurance and Value-payable Post.—Section 36. Chapter VII.—Undelivered Postal Articles.—Section 37.*)

(*d*) prescribe the form of declaration to be made by the senders of value-payable postal articles, and the time and manner of the payment of fees.

(3) Postal articles shall be made over to the Post Office for the purpose of being sent as "value-payable" and shall be delivered, when so sent, at such times and in such manner as the Director General may, by order, from time to time appoint.

Power to give effect to arrangements with other countries.

36. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the transmission by post of registered, insured or value-payable postal articles between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the form of declaration to be made by the senders of such postal articles as aforesaid ; and

(*b*) the fees to be charged in respect thereof.

CHAPTER VII.

UNDELIVERED POSTAL ARTICLES.

Power to make rules as to disposal of undelivered postal articles.

37. (*1*) The Governor General in Council may make rules as to the disposal of postal articles which for any reason cannot be delivered (hereinafter referred to as "undelivered postal articles").

(*2*) In-

(Chapter VII.—Undelivered Postal Articles.—Sections 38-39.)

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the period during which undelivered postal articles at a post office shall remain in that office ; and

(*b*) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles.

(*3*) Every undelivered postal article, after being detained at a post office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded, free of further charge, to the post office at which it was posted, for return to the sender, or sent to the office of the Post Master General.

Disposal of undelivered postal articles at office of Post Master General.

38. (*1*) Every postal article received at the office of the Post Master General under sub-section (*3*) of section 37 shall be dealt with as follows :—

(*a*) if practicable, it shall be redirected and forwarded by post to the addressee ; or,

(*b*) if it cannot be redirected and forwarded as aforesaid, it shall be opened by some officer, appointed by the Post Master General in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

(*2*) If the name and address of the sender are so ascertained, it shall be returned by post to the sender, free of further charge or subject to such further charge as the Governor General in Council may, by rule, direct.

Final disposal of undelivered postal articles.

39. Undelivered postal articles which cannot be disposed of under the foregoing provisions, shall be detained in the office of the Post Master General for such further period (if any), and shall be dealt with in such manner as the Governor General in Council may, by rule, direct :

Provided

Provided that—

(*a*) letters and postcards shall be destroyed;

(*b*) money or saleable property, not being of a perishable nature, found in any undelivered postal article, shall be detained for a period of one year in the office of the Post Master General, and, if on the expiration of that period no person has established his right thereto, shall, if money, be credited to the Post Office, and, if saleable property, be sold, the sale-proceeds being credited to the Post Office.

CHAPTER VIII.

SHIP LETTERS.

Duty of master of ship, departing from any port in British India and not being a mail ship, to convey mail bags.

40. The master of ship, not being a mail ship, about to depart from any port in British India to any port within, or any port or place beyond, British India, shall receive on board any mail bag tendered to him by any officer of the Post Office for conveyance, granting a receipt therefor in such form as the Governor General in Council may, by rule, prescribe, and shall, without delay, deliver the same at the port or place of destination.

Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.

41. (*1*) The master of a ship arriving at any port in British India shall, without delay, cause every postal article or mail bag on board which is directed to that port and is within the exclusive privilege conferred on the Governor General in Council by section 4, to be delivered either at the post office at that port or to some officer of the Post Office authorized in this behalf by the Post Master General.

(*2*) If

(*Chapter VIII.—Ship Letters.—Section 42. Chapter IX.—Money Orders.—Section 43.*)

(*2*) If there is on board any postal article or mail bag which is directed to any other place within British India and is within the exclusive privilege aforesaid, the master shall, without delay, report the fact to the officer in charge of the post office at the port of arrival and act according to the directions he may receive from such officer, and the receipt of such officer shall discharge him from all further responsibility in respect of the postal article or mail bag.

Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

42. The Governor General in Council may, by notification in the Gazette of India, declare what gratuities shall be allowed to masters of ships, not being mail ships, in respect of postal articles received by them for conveyance on behalf of the Post Office; and the master of a ship, not being a mail ship, about to leave any port in British India as aforesaid shall, if he receives on board a mail bag for conveyance, be entitled to demand and obtain immediately the amount of the gratuity payable under this section in respect of the mail bag and its contents.

CHAPTER IX.

MONEY ORDERS.

Power to maintain money order system and to make rules as to remittances thereby.

43. (*1*) The Governor General in Council may provide for the remitting of small sums of money through the Post Office by means of money orders, and may make rules as to such money orders.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the limit of amount for which money orders may be issued;

(*b*) the period during which money orders shall remain current; and

(*c*) the

(*c*) the rates of commission or the fees to be charged on money orders or in respect thereof.

Power for remitter to recall money order or alter name of payee.

44. (*1*) Subject to such conditions as the Governor General in Council may, by rules made under section 43, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the Post Office by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

(*2*) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

Power to provide for the issue of postal orders.

45. The Governor General in Council may authorize the issue, in such form as may be suitable, of money orders, to be called postal orders or by such other designation as may be deemed appropriate, for certain fixed amounts, and may make rules as to the rates of commission to be charged thereon and the manner in which, and conditions subject to which, they may be issued, paid and cancelled:

Provided that no such order shall be issued for an amount in excess of ten rupees.

Power to give effect to arrangements with other countries.

46. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or Foreign country, for the issue and payment through the Post Office of money orders between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements.

(*2*) In

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the manner in which, and the conditions subject to which, such orders may be issued and paid in British India; and

(*b*) the rates of commission to be charged thereon.

Recovery of money order paid to the wrong person.

47. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

(*a*) any amount paid to him in respect of a money order by an officer of the Post Office in excess of what ought to have been paid to him in respect thereof, or

(*b*) the amount of a money order paid by an officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable by an officer of the Post Office authorized by the Post Master General in this behalf from the person so neglecting or refusing as if it were an arrear of land revenue due from him.

Exemption from liability in respect of money orders.

48. No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of—

(*a*) anything done under any rules made by the Governor General in Council under this Chapter; or

(*b*) the wrong payment of a money order caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information

as

as a sufficient description for the purpose of identifying the payee ; or

(*c*) the payment of any money order being refused or delayed by, or on account of, any accidental neglect, omission or mistake, by, or on the part of, an officer of the Post Office, or for any other cause whatsoever, other than the fraud or wilful act or default of such officer ; or

(*d*) any wrong payment of a money order after the expiration of one year from the date of the issue of the order.

CHAPTER X.

PENALTIES AND PROCEDURE.

Offences by Officers of the Post Office.

Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.

49. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, —

(*a*) is in a state of intoxication while so employed, or

(*b*) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered, or

(*c*) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid, or

(*d*) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees.

Penalty for voluntary withdrawal from duty, without permission or

50. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties

duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

notice, of person employed to carry or deliver mail bags or postal articles.

51. Whoever, being employed to carry or deliver any postal article in course of transmission by post and required while so employed to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered a postal article, which he has not visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

52. Whoever, being an officer of the Post Office, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

53. Whoever, being an officer of the Post Office, contrary to his duty, opens, or causes or suffers to be opened, any postal article in course of transmission by post, or wilfully detains or delays, or causes or suffers to be detained or delayed, any such postal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Penalty for opening, detaining or delaying postal articles.

Provided that nothing in this section shall extend to the opening, detaining or delaying of any postal article under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court.

54. Whoever,

Penalty for fraud in connection with official marks and for receipt of excess postage.

54. Whoever, being an officer of the Post Office,—

(*a*) fraudulently puts any wrong official mark on a postal article, or

(*b*) fraudulently alters, removes or causes to disappear any official mark which is on a postal article, or,

(*c*) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently preparing, altering, secreting or destroying Post Office documents.

55. Whoever, being an officer of the Post Office entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently sending unpaid postal articles.

56. Whoever, being an officer of the Post Office, sends by post, or puts into any mail bag, any postal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Punishment of offences commited in India outside British India.

57. (*1*) Whoever, being an officer of the Post Office, employed in any place in India beyond the limits of British India in which posts are established by the Governor General in Council, or being appointed to sell postage stamps in any such place, commits therein an offence punishable under this Act, shall be punishable either in the place where the

the offence was committed by any Court or officer duly empowered by the Governor General in Council to take congizance of offences committed in that place, or in any part of British India by any Court of competent jurisdiction as if the offence had been committed in that part.

(*2*) The provisions of section 188 of the Code of V of 1898. Criminal Procedure, 1898, shall not apply to any offence referred to in this section.

Other Offences.

Penalty for contravention of section 4.

58. (*1*) Whoever—

(*a*) conveys otherwise than by post, a letter within the exclusive privilege conferred on the Governor General in Council by section 4, or

(*b*) performs any service incidental to conveying, otherwise than by post, any letter within the exclusive privilege aforesaid, or

(*c*) sends, or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid, or

(*d*) makes a collectien of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by post,

shall be punishable with the fine which may extend to fifty rupees for every such letter.

(*2*) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for contravention of section 5.

59. (*1*) Whoever, in contravention of the provisions of section 5, carries, receives, tenders or delivers letters,

letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter.

(*2*) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for breach of rules under section 16.

60. Whoever, being appointed to sell postage stamps,—

(*a*) takes from any purchaser for any postage stamp or quantity of postage stamps a price higher than that fixed by any rule made under section 16, sub-section (*3*), clause (*a*), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; or

(*b*) commits a breach of any other rule made under section 16, shall be punishable with fine which may extend to two hundred rupees.

Penalty for contravention of section 19 or 20.

61. (*1*) Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment for a term which any extend to one year, or with fine, or with both.

(*2*) The detention in the Post Office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or section 20, shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post.

Penalty for defiling or injuring post office letter-boxes.

62. Whoever places in or against any letter-box provided by the Post Office for the reception of postal articles

articles any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for affixing without authority thing to, or painting, tarring or disfiguring, post office or post office letter-box.

63. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars or in any way disfigures any post office or any letter-box provided by the Post Office for the reception of postal articles, shall be punishable with fine which may extend to fifty rupees.

Penalty for making false declaration.

64. Whoever, being required by this Act to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

Penalty for master of ship failing to comply with the provisions of section 40 or 41.

65. Whoever, being the master of a ship,—

(*a*) fails to comply with the provisions of section 40, or,

(*b*) without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to comply with the directions of the officer in charge of the post office at a port of arrival, as required by section 41,

shall be punishable with fine which may extend to one thousand rupees.

66. (*1*) Whoever,

(*Chapter X.—Penalties and Procedure.—Sections 66—68.*)

Penalty for detention of letters on board vessel arriving in port.

66. (*1*) Whoever, being either the master of a ship arriving at any port in British India or any one on board, knowingly has in his baggage or in his possession or custody, after the postal articles on board or any of them have been sent to the post office at the port of arrival, any postal article within the exclusive privilege conferred on the Governor General in Council by section 4, shall be punishable with fine which may extend to fifty rupees for every such postal article as aforesaid.

(*2*) Whoever, being such master or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the Post Office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

Penalty for detaining mails or opening mail bag.

67. Whoever, except under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court, detains the mails or any postal article in course of transmission by post, or on any pretence opens a mail bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees:

Provided that nothing in this section shall prevent the detention of an officer of the Post Office carrying the mails or any postal article in course of transmission by post, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, 1898, or any other law for the time being in force. V of 1898.

Penalty for retaining postal articles wrongly delivered or mail bags.

68. Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or when required by an officer of the Post Office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal

postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for unlawfully diverting letters.

69. Whoever, not being an officer of the Post Office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both :

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

General.

Penalty for abetting, or attempting to commit, offences under Act.

70. Whoever abets the commission of any offence punishable under this Act or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Property in cases of offences to be laid in the Post Office.

71. In every prosecution for an offence in respect of a mail bag or of any postal article sent by post, it shall be sufficient, for the purpose of the charge, to describe the mail bag or postal article as being the property of the Post Office, and it shall not be necessary to prove that the mail bag or postal article was of any value.

Authority for prosecutions under certain sections of Act.

72. No Court shall take cognizance of an offence punishable under any of the provisions of sections 51, 53, 54, clauses (*a*) and (*b*), 55, 56, 58, 59, 61, 64, 65, 66 and 67 of this Act, unless upon complaint made by order of, or under authority from, the Director General or a Post Master General.

CHAPTER XI.

CHAPTER XI.

SUPPLEMENTAL.

Zamindari and other district posts.

73. (*1*) The Governor General in Council may make rules for the management of any zamindari or other district post.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may declare what portions of this Act shall be applicable to zamindari and other district posts and to the persons employed in connection therewith.

General power to make rules and provisions as to rules under Act.

74. (*1*) In addition to the powers hereinbefore conferred, the Governor General in Council may make rules to carry out any of the purposes and objects of this Act.

(*2*) In making any rule under this Act, the Governor General in Council may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(*3*) All rules made by the Governor General in Council under this Act shall be published in the Gazette of India and, on such publication, shall have effect as if enacted by this Act.

Delegation of powers, other than rule-making powers, to Director General.

75. The Governor General in Council may, by notification in the Gazette of India, authorize, either absolutely or subject to conditions, the Director General to exercise any of the powers conferred upon the Governer General in Council by this Act, other than a power to make rules.

Repeal.

76. The enactments mentioned in the second schedule are repealed to the extent specified in the fourth column thereof.

Saving.

77. Nothing in this Act shall derogate from or affect the provisions of the East India Company Act, 1780, or any enactment amending or extending the same. 21 Geo. 3, c. 70.

THE FIRST SCHEDULE.

(The First Schedule.—Inland Postage Rates. The Second Schedule.—Enactments repealed).

THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(See section 7.)

LETTERS.

For a weight not exceeding half a tola . . .	Half an anna.
For a weight not exceeding one tola . . .	One anna.
For every tola or fraction thereof exceeding one tola	One anna.

POSTCARDS.

Single	Quarter of an anna.
Reply	Half an anna.

BOOK, PATTERN AND SAMPLE PACKETS.

For every ten tolas or fraction thereof . . .	Half an anna.

NEWSPAPERS.

For a weight not exceeding three tolas . . .	Quarter of an anna

REGISTERED NEWSPAPERS.

For a weight not exceeding twenty tolas . .	Half an anna.
For every twenty tolas or fraction thereof exceeding twenty tolas	Half an anna.

PARCELS.

For a weight not exceeding twenty tolas . .	Two annas.
For a weight not exceeding forty tolas . . .	Four annas.
For every additional forty tolas or fraction thereof exceeding forty tolas	Four annas.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See Section 76.)

Year.	No.	Short title.	Extent of repeal.
1866	XIV	The Indian Post Office Act, 1866.	The whole.
1882	III	The Seditious Publications Act, 1882.	So much as is unrepealed.
1895	III	The Indian Criminal Law Amendment Act, 1895.	Section 7.
1896	XVI	The Indian Post Office Act (1866) Amendment Act, 1896.	The whole.
1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Act XVI of 1896.

ACT No. VII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 28th March 1898.*)

An Act to further amend the Petroleum Act, 1886.

WHEREAS it is expedient to further amend the Petroleum Act, 1886; It is hereby enacted as follows:— XII of 1886.

Short title and commencement.

1. (*1*) This Act may be called the Petroleum Act, 1898; and

(*2*) It shall come into force at once.

Substitution of new definition of "petroleum" in section 3, Act XII, 1886.

2. In section 3 of the Petroleum Act, 1886, for clause (*1*) the following shall be substituted, namely:— XII of 1886.

'(*1*) "petroleum" includes also—

(*a*) the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline and benzine;

(*b*) any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any product of petroleum; and

(*c*) any liquid or viscous mixture having in its composition any of the liquids aforesaid:

but it does not include any oil ordinarily used for lubricating purposes and having its flashing-point at or above two hundred degrees of Fahrenheit's thermometer.'

3. To

Addition of new sub-sections to section 4, Act XII, 1886.

3. To section 4 of the said Act the following sub-sections shall be added, namely :—

"(*3*) The Governor General in Council may, by notification in the official Gazette, alter or add to the schedule to this Act by prescribing new or varied tests, and directions for preparing and using them; and all references in this Act to the schedule, when altered or added to, shall be construed as referring to the schedule as so altered or added to for the time being.

X of 1897. (*4*) The provisions of section 23 of the General Clauses Act, 1897, shall apply to notifications under sub-section (*3*) as if they were rules or orders required to be made after previous publication."

ACT No. VIII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 15th July, 1898.

An Act to amend the Indian Paper Currency Act, 1898.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1898; It is hereby enacted as follows:— II of 1898.

Short title and commencement.

1. (*1*) This Act may be called the Indian Paper Currency Act Amendment Act, 1898; and

(*2*) It shall come into force at once.

Amendment of section 1, Act II, 1898.

2. Sub-section (*3*) of section 1 of the Indian Paper Currency Act, 1898, is hereby repealed and the following is substituted therefor, namely:— II of 1898.

"(*3*) It shall remain in force for two years and six months from the commencement thereof."

ACT No. IX of 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 12th August, 1898.*)

An Act to make better provision for the regulation of the importation of live-stock.

WHEREAS it is expedient to make better provision for the regulation of the importation of live-stock which is liable to be affected by infectious or contagious disorders; It is hereby enacted as follows:—

Short title, local extent and commencement.

1. (*1*) This Act may be called the Live-stock Importation Act, 1898.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "infectious or contagious disorders" includes tick-pest, anthrax, glanders, farcy, scabies and any other disease or disorder which may be specified by the Governor General in Council by notification in the Gazette of India; and

(*b*) "live-stock" includes horses, kine, camels, sheep and any other animal which may be specified by the Governor General in Council by notification in the Gazette of India.

Power to regulate importation of live-stock.

3. (*1*) The Governor General in Council may, by notification in the Gazette of India, regulate, restrict or prohibit, in such manner and to such extent as he may think fit, the bringing or taking, by sea or land, into British India or any specified place therein, of any

any live-stock which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness or fittings appertaining to live-stock or that may have been in contact therewith.

(*2*) A notification under sub-section (*1*) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of customs at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly. VIII of 1878.

Power for Local Government to make rules.

4. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules for the detention, inspection, disinfection or destruction of imported live-stock, and of fodder, dung, stable-litter, clothing, harness or fittings appertaining to imported live-stock or that may have been in contact therewith, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(*2*) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Protection to persons acting under Act.

5. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

ACT No. X OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd September, 1898.)

An Act to make provision for certain matters connected with Insolvency.

WHEREAS doubts have arisen as to the extent of the power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848, and whereas it is expedient to remove those doubts and to confirm certain rules which were made by the High Court of Judicature at Bombay on the thirty-first day of July, 1878; It is hereby enacted as follows:—

11 & 12 Vict., c. 21.

Short title and commencement.

1. (*1*) This Act may be called the Indian Insolvency Rules Act, 1898; and

(*2*) It shall come into force at once.

Extent of power to make rules under the Indian Insolvency Act, 1848.

2. The power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848, shall be deemed to include, and to have included, a power to make rules for the audit of the accounts of the official assignee, and for paying for the costs of such audit and for paying the reasonable costs, charges and allowances of the official assignee, out of the funds in the hands of the official assignee.

11 & 12 Vict., c. 21.

Confirmation of rules made on the 31st July, 1878, by the Bombay High Court.

3. The rules made, in exercise of the aforesaid power, by the High Court of Judicature at Bombay on the thirty-first day of July, 1878, are hereby confirmed.

Official assignee's allowance for pension.

4. The Chief Justice of the said Court may, with the previous sanction of the Governor General in Council, pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement, or bonus in lieu thereof, as may be reasonable and proper having regard to the length, nature and conditions of his service.

THE CENTRAL PROVINCES TENANCY ACT, 1898.

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ACT NO. XI OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st October, 1898.)

An Act to consolidate and amend the Law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Central Provinces Tenancy Act, 1898.

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) the expressions "agricultural year," "málik-mákbúzá," "sír-land," "survey-number," "record-of-rights" and "village" have the meanings assigned to them, respectively, in the Central Provinces Land-revenue Act, 1881, as from time to time amended:

XVIII of 1881.

(*2*) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

(*3*) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(*4*) "improvement" means, with reference to a holding, any work which adds to the letting-value of the

the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(5) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(6) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be, liable to pay rent for that land:

(7) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(9) "Revenue-officer" and "Settlement-officer," in any provision of this Act, mean, respectively, such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as from time to time amended, as the Local Government may, by notification in the local official Gazette, direct to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: and

XVIII of 1881.

(*10*) "tenant"

(*Chapter II.—Of Tenants generally.—Secs. 3-5.*)

(*10*) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thíkádár of proprietary rights:

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CHAPTER II.

Of Tenants generally.

A.—Classification of Tenants.

Classes of tenants.

3. There shall be five classes of tenants, namely:—

(*1*) absolute occupancy-tenants;
(*2*) occupancy-tenants;
(*3*) village-service-tenants;
(*4*) sub-tenants; and
(*5*) ordinary tenants.

B.—Provisions relating to Rent.

Presumption as to amount of rent payable.

4. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Date from which order fixing rent operates.

5. Save as provided in sections 66 and 78, an order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date

date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for payment of rents.

6. Rent shall be payable in such instalments and on such dates as the Local Government may, by notification in the local official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Local Government may, by notification in the local official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

8. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and,

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable

chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

9. (*1*) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*3*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Penalty for levy of anything in excess of rent by landlord.

10. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenant as compensation.

Presumption as to payments by tenant to landlord.

11. Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent.

Penalty for refusing receipt or giving defective receipt.

12. A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made,

made, or the amount paid, shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum, not exceeding double the amount or value of the rent so paid, as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Reduction of rent when effect of improvement ceases.

14. When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement-officer, as the case may be.

Power to alter rent when holding is increased, diminished or deteriorated.

15. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

16. When

Power to alter rent in case of new assessment.

16. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

17. (*1*) In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of sír-land, or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money-rent.

(*2*) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money-rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(*3*) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

18. (*1*) Whenever

Remission and suspension of rent consequent on like treatment of land-revenue.

18. (*1*) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue:

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(*2*) An order passed under sub-section (*1*) shall not be liable to be contested by suit in any Court.

(*3*) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(*4*) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(*5*) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(*6*) The

(*6*) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by málik-mákbúzás, to revenue and málikáná payable by inferior proprietors, and to thíká-jamás payable by thíkádárs of proprietary rights, and the provisions of section 10 apply in cases where revenue, málikáná or thíká-jamá has been collected in contravention of this section.

C.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

19. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment of assessors, etc.

20. (*1*) When a Revenue-officer appoints a commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(*2*) The commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

Remedy for error in division.

21. (*1*) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value

value of the additional portion of the crop due to him at the price which prevailed on that date.

(*2*) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

22. (*1*) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(*2*) The Revenue-officer shall consider the commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

D.—Of the Landlord's Lien on the Produce of a Holding.

Definition of "produce of a holding."

23. In sections 24 to 30 (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding ;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

24. Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding:

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period

period than one year, or in respect of any produce which is under attachment by order of any Civil Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Effect of instituting suit for rent while notice is in force.

25. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Right to reap, etc., produce not affected.

26. A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Contents and service of notice; time for which it remains in force.

27. (*1*) Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(*2*) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or, if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid.

Procedure when produce is under attachment.

28. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale, in the first instance, to satisfy the claim.

(*2*) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlord.

29. Where land is sublet and any conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

30. (*1*) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and,

where a notice in respect of the produce of a holding has been served under section 27 and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section 26,

shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

(*2*) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, 1898, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

31. (*1*) In respect of the holding of an absolute occupancy-

occupancy-tenant or occupancy-tenant, or of the holding of an ordinary tenant which does not consist entirely of sír-land, the tenant shall be entitled to make improvements.

(*2*) If the landlord of any such holding as is referred to in sub section (*1*) desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request, may, subject to such rules of procedure as the Local Government may, by notification in the local official Gazette, prescribe in this behalf, make the improvement himself.

(*3*) In respect of the holding of an ordinary tenant which consists entirely of sír-land, the landlord shall be entitled to make improvements.

Liability to pay to tenant on ejectment compensation for improvements.

32. (*1*) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejectment.

(*2*) A Civil Court making a decree for the ejectment of a tenant, or a Revenue-officer ordering ejectment in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejectment to be due to him from the tenant.

(*3*) No compensation shall be claimable under this section for an improvement where the tenant has

has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(*4*) Improvements made by a tenant before the commencement of this Act, in lands other than sír-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

33. (*1*) The Local Government may, by notification in the local official Gazette, make rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(*2*) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

(*a*) to the amount by which the letting-value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(*3*) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

34. An

Avoidance of provisions barring right to make, or be compensated for, improvements.

34. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(*a*) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

Miscellaneous.

Surrender of holdings.

35. (*1*) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding:

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(*2*) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (*1*), that is to say:—

(*a*) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(*c*) if the landlord himself, at any time during the agricultural year next following the surrender,

surrender, cultivates or lets to another tenant the holding or any part thereof.

(*3*) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (*1*) for the rent of his holding.

(*4*) Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding:

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

Surrender of occupancy-tenant's holding.

36. (*1*) If an occupancy-tenant surrenders his holding under section 35, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(*2*) As among several persons so entitled and desirous of being placed in possession of the holding, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(*3*) When

(*Chapter II.—Of Tenants generally.—Secs. 37-38. Chapter III.—Of Absolute Occupancy-tenants.—Sec. 39.*)

(*3*) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

(*4*) Sub-sections (*1*), (*2*) and (*3*) shall not apply in cases where, subject to any rules made by the Local Government in this behalf, a Revenue-officer has decided, after an enquiry made on the application of either landlord or tenant, that the surrender is *bonâ fide* and has not been made with the object of evading the provisions of section 45 or section 46.

Tenant taking thíká or farm.

37. When a person, at the time of taking a thíká or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíká or farm.

Provisions regarding tenant-right not applicable to tenant of land in reserved forests.

38. Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the Indian Forest Act, 1878.

VII of 1878.

CHAPTER III.

Of Absolute Occupancy-tenants.

Definition of "absolute occupancy-tenant."

39. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which

which he, or a person whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January, 1884, as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

40. (*1*) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under the provisions of section 13, section 14, section 15 or section 17.

(*2*) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

41. (*1*) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(*2*) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(*3*) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(*a*) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may

may, on application made to him in this behalf, fix; or

(*b*) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(*4*) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(*5*) When the right of an absolute occupancy-tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by clause (*a*) of sub-section (*3*).

(*6*) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and, if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(*7*) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(*8*) If a person to whom an absolute occupancy-tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejectment of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession on his depositing within a stated period, for payment to the landlord, the costs incurred by the landlord in procuring the ejectment.

If

(*Chapter III.—Of Absolute Occupancy-tenants.—Secs. 42-43. Chapter IV.—Of Occupancy-tenants.—Sec. 44.*)

If the tenant fails to make such application within one year of the ejectment, or if he fails to deposit such costs within the period stated, his tenancy shall be deemed to have lapsed.

Absolute occupancy-tenant not liable to ejectment.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding and holding saleable in execution of decree for arrears of rent.

43. The rent of the holding of an absolute occupancy-tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent thereof.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

Definition of "occupancy-tenant."

44. Every tenant who, on the first day of January, 1884, had held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(*a*) sír land, or

(*b*) held in lieu of wages, or

(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

Explanation I.

(*Chapter IV.—Of Occupancy-tenants.—Sec. 45.*)

Explanation I.—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Accrual of occupancy-tenant-right in sír-land on transfer of right to occupy as proprietor.

45. (*1*) Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (*2*), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers his right to occupy sír-land as a proprietor, shall at the date of such loss or transfer become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

Grant of sanction in certain cases to transfer of the right to occupy sír-land.

(*2*) An application by a proprietor for sanction to transfer his sír-land without reservation of the right of occupancy provided for in sub-section (*1*) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as the Local Government may appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other

cases

cases he shall transmit the application to the Local Government, which may sanction the transfer in whole or in part, on the ground that—

(*a*) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his sír-land, or

(*b*) that the area of the sír-land is too large for the transferor to manage after he has transferred his proprietary rights, or

(*c*) that for any other reason the transfer ought to be permitted.

The Local Government may make rules for the guidance of Revenue-officers dealing with applications under this sub-section.

Prohibition in certain cases of registration of documents transferring right to occupy sír-land.

(*3*) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his sír-land, without reservation of the right of occupancy provided for in sub-section (*1*), or to be an agreement for such transfer or surrender, unless sanction to such transfer or surrender has been endorsed on the document in such manner and by such authority as the Local Government may direct. III of 1877.

Partition of undivided share in sír-land.

(*4*) If there are two or more sharers in any sír-land, and one of them becomes an occupancy-tenant in it under this section, his previous share in such sír-land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy-tenant shall be limited to the land comprised in such share.

Saving of rights of ordinary tenants.

(*5*) The accrual of occupancy-tenant-right under sub-section (*1*) shall not affect the rights of an ordinary tenant holding any part of the sír-land at the time of such accrual.

(*6*) Nothing

(6) Nothing in this section shall affect a document expressly providing for the transfer of the right to occupy sír-land as a proprietor, and duly registered before the commencement of this Act or shall apply to a surrender or a transfer made, decreed or ordered in pursuance of such a document. Saving of prior registered documents.

(7) No Civil Court shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy sír-land as a proprietor. Bar of jurisdiction of Civil Courts.

(8) Nothing in this section shall apply to "bhogra" land. Exception of bhogra.

Explanation.—For the purposes of this section a transfer includes a mortgage and a lease.

46. (1) When an occupancy-tenant dies his right in his holding shall devolve as if it were land: Devolution of occupancy-right.

Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless, failing any such co-sharer, he held land, or was permanently resident, in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy-tenant in his holding, nor shall such right be sold in execution of any decree or order. Exemption of occupancy-rights from Court sales.

(3) No occupancy-tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections: Prohibition of transfer of occupancy-rights.

Provided

Provided that an occupancy-tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right of occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose, or who has become by succession a co-sharer therein:

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy-tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding. XIX of 1883. XII of 1884.

Prohibition of contracts for future sub-leases.

(*4*) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring occupancy-rights.

(*5*) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy-tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein. III of 1877.

Rights of certain persons to apply to set aside transfers.

47. (*1*) If an occupancy-tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of

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the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(*2*) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

49. The

Rent of occupancy-tenant to be fixed at settlement.

49. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

50. (*1*) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

(*2*) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(*3*) Subject to the provisions of sections 13, 14, 15 and 17, the rent payable by any such tenant in respect of a holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

(*a*) in the districts of Chánda and Nimár, the rate which the Local Government has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the current settlement;

(*b*) in the district of Sambalpúr, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during settlement in other districts.

51. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency

currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced, subject to any rules made under this Act for the local area in which the holding is situate and for the time being in force:

Provided that—

(*a*) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of sections 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

Grounds for ejectment.

52. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as hereinafter provided for arrears of rent; or

(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

53. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging

(*Chapter IV.—Of Occupancy-tenants.—Sec.* 54. *Chapter V.—Of Village-service-tenants.—Secs.* 55-56.)

exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

54. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

OF VILLAGE-SERVICE-TENANTS.

Definition of "village-service-tenant."

55. A tenant of a holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable terms on condition of rendering village-service, is a village-service-tenant.

Devolution and transfer of village-service-tenant's right.

56. (*1*) When a village-service-tenant dies, resigns or is lawfully dismissed, his right in his village service-holding shall pass to his successor in office :

Provided that the Local Government may, by general or special order, direct that, where, on the resignation, dismissal or death of a village watchman or patwari, his successor in office is not his heir, the village-service-tenure shall cease, in which case the holding shall be retained in occupancy-tenant-right by the late village-service tenant or shall devolve in occupancy-tenant-right on his heir, as the case may be, at a rent which for the remainder of the term of the

the current settlement shall be that determined at such settlement as the rental value of the holding.

(*2*) A transaction by which a village-service-tenant attempts to effect a transfer of his interest in his village-service-holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service-tenant shall be liable to be ejected for such attempt.

(*3*) The right of a village-service-tenant shall not be sold in execution of a decree.

Obligation of village-service-tenant to provide substitute.

57. If a village-service-tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

Grounds on which a village-service-tenant may be ejected.

58. (*1*) A village-service-tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely:—

(*a*) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (*2*);

(*b*) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly, or, being unable to render it himself, has failed to provide a competent person to render it as required by section 57;

(*c*) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which, by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office;

(*d*) that the tenant has resigned, or been dismissed from, his office.

(*2*) When a village-service-tenant is ejected from his holding under this section, or when he dies or resigns

resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (*l*), place his successor in office in possession of the holding; and when a village-service-tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may reinstate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

CHAPTER VI.

OF SUB-TENANTS.

Definition of "sub-tenant."

59. A tenant who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from another tenant, or from a málik-mákbúzá, or from the holder of a survey-number, is a sub-tenant of that land.

Tenure according to agreement.

60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord:

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

Power to declare sub-tenants in certain cases to have rights of ordinary tenants.

61. (*l*) In any local area in which the Local Government may by notification in the local official Gazette declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement-officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government may prescribe, be declared by such Revenue-officer or Settlement-officer to have all the rights

conferred

conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds:

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenant to show cause against it.

(*2*) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(*3*) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenant shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

CHAPTER VII.

Of Ordinary Tenants.

Definition of "ordinary tenant."

62. (*1*) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service-tenant or a sub-tenant, is an ordinary tenant.

(*2*) In any local area in which the Local Government may, by notification in the local official Gazette, declare that the provisions of this sub-section are in force, where a person cultivates land not being sír-land under an agreement made with the proprietor of

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the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord.

Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

63. (*1*) A Settlement-officer shall, unless the Local Government otherwise directs, fix the rents payable by the ordinary tenants of a mahál other than ordinary tenants whose holdings consist entirely of sír-land, and, on and from the date on which the land-revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed.

(*2*) The rents fixed under sub-section (*1*) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord.

(*3*) When by reason of the receipt by the landlord of any consideration, whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement-officer under sub-section (*1*), the Settlement-officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

(*a*) if the term is fixed by contract, for the term so fixed or for any shorter period;

(*b*) in other cases, for such term as the Settlement-officer, having regard to the circumstances, fixes as fair and equitable;

and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (*2*):

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made, and, at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

64. When

(Chapter VII.—Of Ordinary Tenants.—Secs. 64-66.)

Notice of enhancement to be served through Revenue-officer.

64. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sír-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or more than twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Liability of tenant to ejectment in default of his agreeing to enhancement.

65. (*1*) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(*2*) If the tenant does not, within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

Procedure in ejectment-suit.

66. (*1*) If, when an application has been made under sub-section (*2*) of the last foregoing section, the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (*2*).

(*2*) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding : Provided that, save where in the Revenue-officer's opinion the existing

existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(*3*) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (*2*).

(*4*) If the tenant does not agree to pay the rent determined under sub-section (*2*), the Revenue-officer may make an order for his ejectment, subject to the provisions of sections 88 and 89 and subject to the deposit by the landlord, within a month from the date of the order, of the amount of compensation (if any) determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejectment shall become void.

Rent of ordinary tenant regulated by agreement.

67. An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Fresh proceedings not to be taken for seven years.

68. When the rent of a tenant has been fixed by a Settlement-officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any) determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise, in respect of such holding be permissible, for a period

period of seven years from the date on which the settlement made by the Settlement-officer took effect, or from the date of such fixation, agreement, contract or consent, or from the date of such order for ejectment becoming void, as the case may be:

Provided that, where a tenant is holding land under a special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

Grounds on which an ordinary tenant may be ejected.

69. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant by section 52;

(*b*) in accordance with the provisions of section 66;

(*c*) in execution of a decree for ejectment passed on the ground that his holding consists entirely of sír-land.

Devolution of ordinary tenancy.

70. (*1*) When an ordinary tenant dies, his right in his holding shall devolve as if it were land:

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

Exemption of ordinary tenant-rights from Court sales.

(*2*) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order.

Prohibition of transfer of ordinary tenant-rights.

(*3*) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right or holding or any portion thereof; and every such sale,

gift,

gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Provided that nothing in this sub-section shall affect the right of the Government to sell the right of an ordinary tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding. XIX of 1883. XII of 1884.

Prohibition of contracts for future sub-leases.

(*4*) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof ; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring ordinary tenant-rights.

(*5*) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer the right of an ordinary tenant in his holding or in any portion thereof. III of 1877.

Right of certain persons to apply to set aside transfers.

71. (*1*) If an ordinary tenant transfers any portion of his rights in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer made within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(*2*) As

(*2*) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

72. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made, and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

Obligation of landlord to confer occupancy-rights on ordinary tenant.

73. (*1*) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to two-and-a-half times the annual rent payable in respect of the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the

the holding; and, when those rights have so been conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section 51, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer, or during the progress of settlement-operations to a Settlement-officer, to fix the rent of the holding for the purposes of this section; and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant:

Provided, further, that, if the application is made otherwise than during the progress of settlement-operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(*2*) If a landlord to whom a request and tender are made by a tenant under sub-section (*1*), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement-operations, of a Settlement-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(*3*) The

(*3*) The officer so applied to, after giving notice of the application to the landlord and hearing him, if he appears, and after making such inquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy-tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(*4*) Every person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(*5*) Nothing in this section shall apply to a holding consisting entirely of sír-land.

CHAPTER VIII.

JURISDICTION AND PROCEDURE.

Power to direct that suits between landlords and tenants be entered in separate registers.

74. The Local Government may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as it may prescribe.

XIV of 1882.

Plaint in such suits.

75. (*1*) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

IV of 1882.

(*2*) When the land to which the suit relates comprises parts of numbered fields or has not been divided into

into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed unless for special reasons.

76. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

77. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Procedure when ordinary tenant in suit pleads excessive rent.

78. (*1*) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of sír-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

(*2*) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement-officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined, above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement-officer in proceedings taken before the commencement of this Act only after the landlord had refused to comply with the request of the Settlement-officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year only to the extent of the amount

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(if any) by which his payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

(*3*) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (*2*) but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

Explanation I.—Nothing in this section shall be construed to authorize a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

Explanation II.—A statement made during the progress of settlement-operations by the Settlement-officer, and contained in any return or report prescribed by the Local Government, to the effect that a landlord refused to reduce any rent, shall be conclusive proof of such refusal.

Tenants' improvements how to be

79. When the land in respect of which an application is made under section 50 or section 51, or for which

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treated in fixing rents.

a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the land, as cultivated land, shall, notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid, to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made.

Interest on arrears.

80. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

81. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the Central Provinces Civil Courts Act, 1885, shall not be subject to appeal, unless— XVI of 1885.

(*a*) the amount or value of the subject-matter of the suit exceeds one hundred rupees ; or

(*b*) a question relating to a title to land or some interest in land, has been determined as between parties having conflicting claims thereto.

Application for execution by sale of holding or by ejectment.

82. An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

83. No

Arrears decreed not to be on current year's account.

83. No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Procedure in execution by sale of holding.

84. (*1*) A decree for arrears of rent due in respect of an absolute occupancy-holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a contract specifically affecting the holding, and shall under section 320 of the Code of Civil Procedure be transferred to the Collector for execution.

XIV of 1882.

(*2*) The Collector executing the decree may, notwithstanding anything contained in section 305 of the Code of Civil Procedure, allow the tenant time in which to pay the amount due: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed two months.

Procedure in execution by ejectment.

85. (*1*) A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a sub-tenant may be executed by the ejectment of the tenant: Provided that, notwithstanding anything contained in the Code of Civil Procedure, an order for the ejectment of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution.

XIV of 1882.

(*2*) The Revenue-officer on receiving the decree shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due he will be ejected from his holding.

(*3*) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the

the provisions of sections 32, 88 and 89, eject the tenant or may, after such enquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed in the case of an occupancy-holding or an ordinary holding not consisting entirely of sír-land four months, or in the case of an ordinary holding consisting entirely of sír-land or a holding held by a sub-tenant one month.

(*4*) The Local Government may make rules for the guidance of Revenue-officers executing decrees under this section.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

86. (*1*) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(*2*) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(*3*) In making a decree under this section the Court shall have regard to—

(*a*) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(*b*) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(*4*) If

(*4*) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

87. (*1*) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may, from time to time, extend a period fixed by it under sub-section (*2*) for remedying a damage or breach.

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage

damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected tenants in respect of crops and land prepared for sowing.

88. The following rules shall be applicable in the case of every tenant ejected from a holding :—

(*1*) When the tenant has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(*2*) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon :

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided, also, that the rent, if any, payable to the landlord by the tenant at the time of ejectment may be set off against any sums payable to the tenant under this section.

Payment by tenant for occupation of land under section 88.

89. When a landlord elects, under clause (*1*) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which

which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

In suits for arrears all claims between landlord and tenant to be determined.

90. In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

Procedure when, on sale or ejectment, money is due by the landlord to the tenant.

91. (*1*) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

(*2*) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant; and, if it is not so paid, the Court shall refuse to make such order.

Reinstatement of tenant illegally ejected.

92. Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with the provisions of this Act, may, on application to a Revenue-officer made within one year from the date of his ejectment, be reinstated in possession of such holding or portion:

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit:

Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

I of 1877.

93. (*1*) If

(Chapter VIII.—Jurisdiction and Procedure.—Secs. 93-94.)

Applications to measure or ascertain condition of holdings.

93. (*1*) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits under the Act.

94. (*1*) The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected, shall be two years from the date on which he is ejected.

(*2*) Whenever rent is taken by division of the produce or by estimate or appraisement of the crop, and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent, or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent instalment on account of the harvest to which the crop belongs fell due.

(*3*) In

(*Chapter VIII.—Jurisdiction and Procedure.—Secs. 95-97.*)

(*3*) In all other cases the limitation of every suit brought under this Act shall be governed by the
XV of 1877. Indian Limitation Act, 1877:

Provided that nothing in sections 7, 8 and 9 of the said Act shall apply to suits for arrears of rent or for the ejectment of a tenant, or to suits for recovery of possession by a tenant against his landlord.

Jurisdiction of Civil Courts barred in certain cases.

95. Save where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement-officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement-officer.

Procedure on applications to Revenue and Settlement Officers, and appeals from their orders.

96. (*1*) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act and any rules made thereunder, exercise the same powers and follow the same procedure as they exercise and
XVIII of 1881. follow under the Central Provinces Land-revenue Act, 1881, as from time to time amended.

(*2*) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

97. Except as provided in section 95, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such:

Provided that—

(*a*) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(*b*) the

(*Chapter VIII.—Jurisdiction and Procedure.—Sec. 98. Chapter IX.—Supplemental.—Secs. 99-100. The Schedule.—Enactments repealed.*)

(*b*) the Local Government may, subject to the other provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

Recovery of fines and penalties.

98. Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land-revenue.

CHAPTER IX.

SUPPLEMENTAL.

Power to Local Government to make rules.

99. The Local Government may, by notification in the local official Gazette, make rules for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder.

Repeals.

100. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 100.*)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1883	IX	The Central Provinces Tenancy Act, 1883.	The whole.
1889	XVII	The Central Provinces Tenancy Act, 1889.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Acts IX of 1883 and XVII of 1889.

ACT No. XII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st October, 1898.)

An Act further to amend the Central Provinces Land-revenue Act, 1881.

XVIII of 1881.

WHEREAS it is expedient further to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Central Provinces Land-revenue Act, 1898; and

(*2*) It shall come into force at once.

XVIII of 1881.

Substitution of new definition of "sír-land" for that contained in section 4, clause (*6*), Act XVII, 1881.

2. In Chapter I of the Central Provinces Land-revenue Act, 1881 (hereinafter referred to as "the said Act"), clause (*6*) of section 4 is repealed, and after section 4 the following shall be added, namely:—

Meaning of "sír-land."

'4A. (*1*) Subject to the provisions of sub-section (*2*), "sír-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other, land, namely:—

(*a*) land finally recorded under section 69 as "sír-land" in the papers of the current settlement;

(*b*) land declared, under section 132, clause (*j*), to be "sír-land"; and

(*c*) land in the Sambalpúr district recorded as "bhogra" in the papers of the current settlement.

(*2*) In

Temporary provisions for districts not settled since 1889.

(2) In any local area of which no settlement has been made since the commencement of the Central Provinces Land-revenue Act, 1889, and until the settlement of such local area next following the commencement of the Central Provinces Land-revenue Act, 1898, "sír-land" includes— XVI of 1889.

(*a*) land defined as sír-land in the foregoing sub-section:

Provided that any such land (other than bhogra) which, at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor, and which had, after the date of the settlement last preceding the commencement of the said Act, been so unoccupied for a period of six consecutive years, shall not be deemed to be "sir-land";

(*b*) land which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by and had been cultivated by the proprietors or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) land which had at the commencement of the Central Provinces Land-revenue Act, 1889, been broken up from waste by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years: Provided that any such land which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor, and had been so unoccupied by him for six consecutive years, shall not be deemed to be "sír-land." XVI of 1889.

Explanation I.—For the purposes of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation

reservation of his sír-rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

Explanation II.—For the purposes of this section—

(*a*) the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a málik-mákbuzá:

(*b*) when by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not "sír-land," and which is taken in exchange for "sír-land," becomes "sír-land" and the "sír-land" given in exchange for that land ceases to be "sír-land":

(*c*) subject to the proviso to sub-section (*2*), clause (*a*), land which has been recorded as "sír-land" in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as "sír-land" under section 69.'

3. For section 65A of the said Act the following shall be substituted, namely:— Substitution of new section for section 65A, Act XVIII, 1881.

'65A. (*1*) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thíkádár, gaontia or farmer, and may, notwithstanding any contract to the contrary and with the previous sanction of the Chief Commissioner, declare such thíkádár, gaontia or farmer to be "protected" for the purposes of this section: Power to inquire into claims of thíkádárs, gaontias and farmers.

Provided that no thíkádár, gaontia or farmer shall be declared to be protected under this section unless he or those from whom he has inherited has or have been in possession of the village or part

of

of the village for a period of not less than twenty years, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost:

Provided also that, when a thíkádár, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement-officer may, in his discretion and with the previous sanction of the Chief Commissioner, instead of declaring him to be protected, confer on him the rights of an occupancy-tenant in respect of the whole or part of any land which he may be cultivating, whether as sír-land or otherwise, at the time of the inquiry, and shall determine the rent payable by him as occupancy-tenant of such land.

(*2*) When a thíkádár, farmer or gaontia is declared to be protected under this section, the Settlement-officer may, at the request of the proprietor of the village, determine the amount of the thíká-jama which shall be payable by such thíkádár, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(*3*) Any person who, having held any village or part of a village as a thíkádár, farmer or gaontia, was ejected by the proprietor from, or lost possession otherwise than by transfer or voluntary surrender of, such village, or part of a village, and who had at the date of such ejectment or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejectment or dispossession apply to the Settlement-officer to reinstate him in the possession of the village or part of the village from which he was ejected; and the Settlement-officer may, with the previous sanction of the Chief Commissioner, replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant

in

in the whole or part of any land in the village which he was cultivating at the time of his ejectment, and place him in possession of such land and determine the rent which shall be payable by him to the proprietor as such tenant.

Explanation.—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January 1893, applied to a Revenue-officer for reinstatement within two years of his ejectment, shall be deemed to have made the application required by this sub-section.

(*4*) The incidents of the tenure of a thíkádár (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows:—

(*a*) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree, nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thíkádár's family;

(*b*) when on the death of a thíkádár there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed:

Provided, first, that of such heirs an heir who was joint with the thíkádár shall have preference over an heir who was separate: and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty at the time of succession to resign his right in favour of another heir bearing the same degree of relationship to the deceased thíkádár as he himself bears:

(*c*) a protected thíkádár, whether holding under a written lease or a verbal agreement, shall be entitled to a renewal of his lease on its expiry, on his agreeing to farm his village at a fair and equitable thíká-jama;

(*d*) in the event of any dispute arising between the proprietor and the protected thíkádár as to what is a fair and equitable thíká-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and Chief Commissioner, be final;

(*e*) not more than one enhancement of the thíká-jama or, where it is so specially provided in the terms of the settlement of the village, no enhancement of the thíká-jama shall be imposed on a protected thíkádár during the currency of a settlement;

(*f*) all miscellaneous dues and cesses, unless specially authorized by the Chief Commissioner, shall be included in the thíká-jama payable under the lease; and

(*g*) a protected thíkádár shall comply with the rules made under section 124A for the management of malguzari forests.

(5) In any proceedings before a Court for the ejectment of a thíkádár, gaontia or farmer, if it appears that the thíkádár, gaontia or farmer has filed an application before a Revenue-officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement-officer for disposal.

(6) If any protected thíkádár, gaontia or farmer is shown to have since the commencement of the Central Provinces Land-revenue Act, 1898, contravened,

or

or to be contravening, the conditions of his tenure as contained in clause (*a*) or clause (*g*) of sub-section (*4*), or to have grossly mismanaged the village held by him in lease, the Settlement-officer or Deputy Commissioner may, with the previous sanction of the Chief Commissioner, declare such thíkádár, gaontia or farmer to have forfeited the protection previously conferred on him under this section, and such thíkádár, farmer or gaontia shall from the date of such declaration cease to be protected.

(*7*) Nothing in this section shall affect the liability of any protected thíkádár, farmer or gaontia to ejectment in execution of a decree for ejectment passed, in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

(*a*) that he has failed to pay the thíká-jama legally payable by him;

(*b*) that he has diverted the culturable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.'

Substitution of new section for section 69, Act XVIII, 1881.

4. For section 69 of the said Act the following shall be substituted, namely:—

Determination and record of sír-land.

'69. (*1*) The Settlement-officer shall ascertain and determine the extent of all the land which is held as sír-land as defined in section 4A, and which has not lost its character as sír-land under the provisions of section 45 of the Central Provinces Tenancy Act, 1898, and shall record the same as sír-land.

(*2*) The Settlement-officer shall also record as sír-land—

(*a*) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been continuously so cultivated for a period of not less than twelve consecutive years; and

(*b*) land

(*b*) land which is at the time of his inquiry cultivated by the proprietor, or one of the proprietors thereof, and, having been broken up from waste-land by such proprietor or one of such proprietors, has since been continuously cultivated by him for a period of not less than six years:

Provided that no land shall be recorded as sír-land under this sub-section if the total area of sír-land within the mahal already exceeds, or will by such record be made to exceed, one-quarter of the total occupied area of the mahal:

Provided, further, that the Settlement-officer may, with the previous sanction of the Commissioner, exempt any mahal or part thereof from this limitation in respect of land falling under clause (*b*) of this sub-section.

(*3*) When a part of such land as is referred to in sub-section (*2*) is excluded from the record of sír-land under the proviso to that sub-section, the proprietor shall have the right to choose the particular fields which are to be excluded.

(*4*) An order or entry of the Settlement-officer recording, or omitting or refusing to record, any land as sír-land under sub-section (*1*) shall be final unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 83 at any time after the record is attested by the Settlement-officer, or his order regarding the entry is passed, and within one year after the settlement comes into effect; and an order or entry recording, or omitting or refusing to record, any land as sír-land under sub-section (*2*) shall be final unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(*5*) The Settlement-officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as sír-land under this

this section and is situated within the mahal or patti owned wholly or partly by such proprietor.

(*6*) All land not falling within the purview of section 4A, sub-section (*1*), shall be presumed, until the contrary is proved, not to be sír-land.

Explanation.—For the purposes of this section the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a málik-mákbuzá.'

Amendment of section 78, Act XVIII 1881.

5. In section 78 of the said Act, after the figures "69," the word and figure "sub-section (*1*)," shall be inserted.

Addition of an *explanation* to section 91, Act XVIII, 1881.

6. To section 91 of the said Act the following *explanation* shall be added, namely:—

'*Explanation.*—The term "assigns" in this section includes a mortgagee in possession and a thíkádár.'

Addition of new section after section 91, Act XVIII, 1881.

7. After section 91 of the said Act the following shall be added, namely:—

Avoidance of attachments and executions which forestall land-revenue.

'91A. Without the previous consent of the Deputy Commissioner or of such officer, not being below the rank of tahsildar, as he may appoint in this behalf, the rents and profits of a mahal or málik-mákbuzá holding and the produce of a survey-number shall not be liable to be attached or taken in execution of a decree or order of any Court until the land-revenue chargeable against such rents, profits or produce, and any arrear due in respect of the mahal, holding or survey-number, have been paid.'

Addition to section 132, Act XVIII, 1881.

8. For clause (*i*) of section 132 of the said Act the following clauses shall be substituted, namely:—

'(*i*) inquiring into the claims of thíkádárs, gaontias or farmers, declaring them to be protected for the purposes of section 65A, and, generally, carrying out the provisions of that section; and

(*j*) declaring,

(*j*) declaring, either on his own motion or on a reference made by a Court or Revenue-officer, land to be sír-land under the provisions of section 69, sub-section (*2*), clause (*b*), and the provisos thereto.'

Addition of new section after section 136V, Act XVIII, 1881.

9. After section 136V of the said Act the following section shall be added, namely :—

Partition may be effected by distribution of mahals.

'136W. Notwithstanding anything contained in this Chapter, when an estate, in respect of the whole or part of which imperfect partition is sought, consists of two or more mahals, or shares in two or more mahals, the partition may be effected by the distribution of such mahals or shares between the co-sharers without imperfect partition of the mahals or shares, or partly by such distribution and partly by imperfect partition, as the Deputy Commissioner may, of his own motion, or on the application of the parties, deem fit. In making the partition referred to in this section, the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.'

Rules regarding village-watchmen may provide for their punishment.

10. In clause (*a*) of section 147A of the said Act, between the words "appointment" and "suspension" the word "punishment" shall be inserted.

Addition of new section after section 157, Act XVIII, 1881.

11. In Chapter XII of the said Act, after section 157 the following shall be added, namely :—

Recovery of miscellaneous revenue.

'157A. Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof and all moneys falling due to the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.'

12. In

(*Sections 12-13.*)

Transfer from Criminal to Revenue Courts of power to fine a mukaddam for breach of duty under the Act.

12. In sections 161A and 161B of the said Act, for the words "punishable with fine" the words "liable, on the order of a Deputy Commissioner, to a fine" shall be substituted.

Repeals.

13. Sections 3, 5, 17, 19, 20 and 24 of the Central Provinces Land-revenue Act, 1889, are repealed.

XVI of 1889.

ROYAL ASIATIC SOCIETY LIBRARY OF THE BOMBAY BRANCH OF THE

ACT No. XIII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th November, 1898.)

An Act to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma and other matters.

WHEREAS it is expedient to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma;

And whereas it is also expedient to amend, repeal, and facilitate the citation of, various enactments in force in Burma;

It is hereby enacted as follows:—

Preliminary.

Short title, commencement and extent.

1. (*1*) This Act may be called the Burma Laws Act, 1898; and

(*2*) It shall come into force at once.

(*3*) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India.

Saving of special or local laws.

2. Save as otherwise in this Act expressly declared, nothing herein contained shall affect the provisions of the Arakan Hill District Laws Regulation, 1874, IX of 1874. the Kachin Hill Tribes Regulation, 1895, the Chin I of 1895. Hills Regulation, 1896, or any special or local law V of 1896.

for

for the time being in force in Burma or any part thereof.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the word "Burma" means the territories for the time being administered by the Lieutenant-Governor of Burma ;

(*b*) the word "chief," used with reference to a Shan State, includes a person temporarily administering such a State ;

(*c*) the expression "Chin Hills" means the territories for the time being known as the Chin Hills;

(*d*) the expression "Lower Burma" means the territories for the time being included in Lower Burma;

(*e*) the expression "Shan States" means the territories for the time being included in the Shan States ; and

(*f*) the expression "Upper Burma" means the territories for the time being included in Upper Burma, including also the Chin Hills.

Upper Burma.

Bengal Regulations and Acts of the Governor General in Council in force in Upper Burma.

4. (*1*) Subject to the provisions of this Act and of any other enactment for the time being in force, this Act and the enactments mentioned in the first schedule, to the extent specified in the fourth column thereof, shall be deemed to be in force in Upper Burma.

(*2*) A Regulation of the Bengal Code or an Act of the Governor General in Council passed before the commencement of this Act, but not mentioned in the first schedule, shall not be deemed to be in force in Upper Burma or in any part thereof, unless it is, after the commencement of this Act, extended thereto in exercise of the powers conferred by section 5 of the

the Scheduled Districts Act, 1874, or by any other enactment for the time being in force. XIV of 1874.

(*3*) The undermentioned enactments shall, in their application to Upper Burma, be deemed to be subject to the following modifications, that is to say:—

(*a*) in the Indian Tolls Act, 1851, for the last sixteen words of section 4 the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted; VIII of 1851.

(*b*) in the Whipping Act, 1864, after section 5 the provisions set forth in the second schedule shall be added; VI of 1864.

(*c*) in the Indian Evidence Act, 1872, after the expression "police-officer" in section 25 the words "who is not a Magistrate" shall be inserted. I of 1872.

(*4*) This section does not extend to the Shan States.

Division of Upper Burma into divisions, districts, subdivisions, townships and circles.

5. The Local Government may, for administrative, including revenue, purposes,—

(*a*) with the previous sanction of the Governor General in Council, divide Upper Burma into divisions and each of those divisions into districts, and vary the limits of those divisions and districts, and

(*b*) of its own authority, divide each of those districts into subdivisions, each of those subdivisions into townships and each of those townships into circles, and vary the limits of those subdivisions, townships and circles.

Construction of enactments in force in Upper Burma.

6. For the purpose of facilitating the application of any enactment for the time being in force in any part of Upper Burma, any Court may construe the enactment with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court.

Lower Burma.

(*Lower Burma.—Sections 7-9. The Shan States.—Section 10.*)

Lower Burma.

Construction of references in certain existing enactments to British Burma and Burma.

7. Where, in any enactment in force on the twenty-fourth day of September, 1886, in any part of Lower Burma and still in force, there occurs a reference to the "British Burma Gazette," or a reference to "the territories administered by the Chief Commissioner of British Burma (or Burma)" or to "British Burma" or "Burma" (except where the expression "Burma" occurs in section 3 of the Petroleum Act, 1886), such reference shall be construed as referring to the Burma Gazette or to Lower Burma, as the case may be.

XII of 1886.

Extension of Bengal Regulation III. 1818, to Lower Burma.

8. The unrepealed portions of Regulation III of 1818 of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma.

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts of Lower Burma.

9. In the tracts of country respectively known as the Salween District and the Hill District of Arakan, section 20 of the Police Act, 1861, shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1898, the Local Government shall continue to have power to confer on any such police-officer in either of those tracts, either generally or in regard to particular cases or classes of cases, all or any of the powers conferred or conferable by or under that Code on any Magistrate.

V of 1861.

V of 1898.

The Shan States.

Law in the Shan States.

10. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, extend, with such restrictions and modifications as it thinks fit, to all or any of the Shan States, or to any specified local area in the Shan States, any enactment which is in force in any part of Upper Burma at the date of the extension.

(*2*) Unless

(*2*) Unless and until it is extended under subsection (*1*), or unless it is expressed by special mention of the Shan States to extend thereto, an enactment shall not be in force in the Shan States or in any part thereof.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, declare what territories constitute the Shan States for the purposes of this Act.

Administration of Shan States by their own chiefs and under their own laws.

11. (*1*) Subject to the provisions of this Act and of any other enactment for the time being in force in a Shan State, and to such conditions as may have been, or may be, prescribed by the Local Government, with the approval of the Governor General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognized by the Local Government as the chief of the State.

(*2*) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and in so far as the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of Shan States.

12. (*1*) The Local Government may, by order,—

(*a*) appoint officers to undertake, or to take part in, the administration of civil and criminal justice and the collection of the revenue within the Shan States;

(*b*) with the previous sanction of the Governor General in Council, define the powers, and regulate the procedure, of officers so appointed and their deputies and subordinates, and

and of the chiefs and their deputies and subordinates;

(*c*) with the previous sanction of the Governor General in Council, direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the Shan States is to be exercised or performed;

(*d*) modify the customary law of the Shan States in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorizes punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India; and

(*e*) modify the system of taxation in the Shan States and regulate the assessment and collection of the revenue therein.

(*2*) An order of the Local Government under sub-section (*1*) may have reference to any one Shan State or to any specified local area therein, or to any number of Shan States specified or referred to in the order.

General.

Law to be administered in certain cases.

13. (*1*) Where in any suit or other proceeding in Burma it is necessary for the Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

(*a*) the Buddhist law in cases where the parties are Buddhists,

(*b*) the Muhammadan law in cases where the parties are Mahammadans, and

(*c*) the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has by enactment been altered or abolished, or is opposed to any custom having the force of law.

(*2*) Subject

(*2*) Subject to the provisions of sub-section (*1*) and of any other enactment for the time being in force, all questions arising in civil cases instituted in the Courts of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original civil jurisdiction.

(*3*) In cases not provided for by sub-section (*1*) or sub-section (*2*), or by any other enactment for the time being in force, the decision shall be according to justice, equity and good conscience.

(*4*) This section does not extend to the Shan States.

Transfers of territory between Upper and Lower Burma.

14. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and, on and with effect from that date, the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(*2*) When any portion of Upper Burma (except the Shan States) is transferred to Lower Burma, the territory so transferred shall, unless the Governor General in Council otherwise directs, continue to be a Scheduled District.

(*3*) When any portion of Lower Burma is transferred to Upper Burma, the Governor General in Council may direct that the territory so transferred shall form part of the Scheduled District of Upper Burma.

Transfer to Lieutenant-Governor of powers and duties of Chief Commissioner.

15. All powers conferred or duties imposed upon the Chief Commissioner of British Burma or Burma by or under any enactment shall be deemed to be, and, on and with effect from the first day of May, 1897, to have been, conferred or imposed upon the Lieutenant-Governor of Burma; and, subject to the provisions of section 7, all references in any instrument

instrument to the said Chief Commissioner shall, on and with effect from that date, be construed as referring to the Lieutenant-Governor.

Amendment of certain enactments.

16. The enactments mentioned in the third schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Citation of certain enactments.

17. The enactments mentioned in the fourth schedule may, without prejudice to any other mode of citation, be cited for all purposes by the appropriate short titles specified in the fourth column thereof.

Repeal of certain enactments.

18. (*1*) The enactments mentioned in the fifth schedule are hereby repealed to the extent specified in the fourth column thereof.

(*2*) But the repeal by this Act of any enactment shall not affect any other enactment in which the enactment repealed has been applied, incorporated or referred to;

and nothing in this Act shall affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall anything in this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE.

[*See section 4, sub-section (1).*]

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA.

[NOTE.—The citation of an enactment includes all enactments, passed before the commencement of this Act, expressly amending the former enactment.]

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Regulation of the Bengal Code.	
1818	III	The Bengal State Prisoners Regulation, 1818.	So much as is unrepealed.
		Acts of the Governor General in Council.	
1843	V	The Indian Slavery Act, 1843.	So much as is unrepealed.
1847	XX	The Indian Copyright Act, 1847.	Ditto.
1850	XII	The Public Accountants' Defaults Act, 1850.	Ditto.
„	XVIII	The Judicial Officers' Protection Act, 1850.	The whole Act.
„	XIX	The Apprentices Act, 1850	So much as is unrepealed.
„	XXXIV	The State Prisoners Act, 1850.	Ditto.
„	XXXVII	The Public Servants (Inquiries) Act, 1850.	Ditto.
1851	VIII	The Indian Tolls Act, 1851.	Ditto.
1852	XXX	The Indian Naturalization Act, 1852.	Ditto.
1853	II	The Landholders' Public Charges and Duties Act, 1853.	The whole Act.
1855	XII	The Legal Representatives' Suits Act, 1855.	So much as is unrepealed.

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1855	XIII	The Indian Fatal Accidents Act, 1855.	So much as is unrepealed.
„	XXIV	The Penal Servitude Act, 1855.	Ditto.
1857	XI	The State Offences Act, 1857.	Ditto.
„	XXV	The Forfeiture Act, 1857	Ditto.
1858	III	The State Prisoners Act, 1858.	Section 5.
„	XXXV	The Lunacy (District Courts) Act, 1858.	So much as is unrepealed.
„	XXXVI	The Indian Lunatic Asylums Act, 1858.	Ditto.
1859	IX	The Forfeiture Act, 1859.	Ditto.
1860	IX	The Employers and Workmen (Disputes) Act, 1860.	Ditto.
„	XXI	The Societies Registration Act, 1860.	Ditto.
„	XLV	The Indian Penal Code .	Ditto.
1861	V	The Police Act, 1861 .	Ditto.
1863	XVI	The Excise (Spirits) Act, 1863.	Ditto.
1864	III	The Foreigners Act, 1864.	Ditto.
„	VI	The Whipping Act, 1864 .	So much as is unrepealed, except section 6.
„	XV	The Indian Tolls Act, 1864.	The whole Act.

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1865	III	The Carriers Act, 1865 .	So much as is unrepealed.
„	X	The Indian Succession Act, 1865.	Ditto.
„	XXI	The Parsi Intestate Succession Act, 1865.	The whole Act.
1867	III	The Public Gambling Act, 1867.	So much as is unrepealed.
„	XXV	The Press and Registration of Books Act, 1867.	Ditto.
1869	IV	The Indian Divorce Act, 1869.	Ditto.
„	V	The Indian Articles of War.	Ditto.
„	XV	The Prisoners' Testimony Act, 1869.	Ditto.
„	XX	The Indian Volunteers Act, 1869.	Ditto.
1870	VII	The Court-fees Act, 1870.	Ditto.
„	XXIII	The Indian Coinage Act, 1870.	Ditto.
1871	I	The Cattle-trespass Act, 1871.	The whole Act.
„	V	The Prisoners Act, 1871 .	So much as is unrepealed.
„	XXIII	The Pensions Act, 1871 .	Ditto.
1872	I	The Indian Evidence Act, 1872.	Ditto.
„	IX	The Indian Contract Act, 1872.	Ditto.

(*The First Schedule.—Enactments declared in force in Upper Burma.*)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1872	XV	The Indian Christian Marriage Act, 1872.	So much as is unrepealed.
1873	V	The Government Savings Banks Act, 1873.	Ditto.
„	X	The Indian Oaths Act, 1873.	Ditto.
1874	II	The Administrator General's Act, 1874.	Ditto.
„	III	The Married Women's Property Act, 1874.	Ditto.
„	IV	The Foreign Recruiting Act, 1874.	Ditto.
„	IX	The European Vagrancy Act, 1874.	Ditto.
„	XIV	The Scheduled Districts Act, 1874.	Ditto.
1875	V	The Unattested Sepoys Act, 1875.	The whole Act.
„	IX	The Indian Majority Act, 1875.	Ditto.
„	XIII	The Probate and Administration Act, 1875.	So much as is unrepealed.
876	XI	The Presidency Banks Act, 1876.	Ditto.
„	XIX	The Dramatic Performances Act, 1876.	The whole Act, except section 12.
1877	I	The Specific Relief Act, 1877.	So much as is unrepealed.
„	II	The Probate and Administration Act, 1877.	Ditto.

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1877	XI	The Military Lunatics Act, 1877.	So much as is unrepealed.
„	XV	The Indian Limitation Act, 1877.	Ditto.
1878	I	The Opium Act, 1878	Ditto.
„	VI	The Indian Treasure-trove Act, 1878.	Ditto.
„	VIII	The Sea Customs Act, 1878.	The whole Act.
„	XI	The Indian Arms Act, 1878.	So much as is unrepealed.
1879	I	The Indian Stamp Act, 1879.	Ditto.
„	III	The Destruction of Records Act, 1879.	Sections 2, 4, 5, 7 and 8.
„	XI	The Local Authorities Loan Act, 1879.	The whole Act.
„	XIV	The Hackney Carriage Act, 1879.	So much as is unrepealed.
„	XX	The Glanders and Farcy Act, 1879.	Ditto.
„	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	Ditto.
1880	V	The Burma Boundaries Act, 1880.	Ditto.
„	XIII	The Vaccination Act, 1880.	The whole Act.
1881	V	The Probate and Administration Act, 1881.	So much as is unrepealed.

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1881	XI	The Municipal Taxation Act, 1881.	The whole Act.
„	XXVI	The Negotiable Instruments Act, 1881.	So much as is unrepealed.
1882	VI	The Indian Companies Act, 1882.	The whole Act.
„	XII	The Indian Salt Act, 1882.	Sections 1, 2, 6, 7 and 8 and Chapter IV.
„	XIV	The Code of Civil Procedure.	So much as is unrepealed.
„	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	The whole Act.
„	XX	The Indian Paper Currency Act, 1882.	So much as is unrepealed.
1883	XIX	The Land Improvement Loans Act, 1883.	Ditto.
1884	IV	The Indian Explosives Act, 1884.	Ditto.
„	VI	The Inland Steam-vessels Act, 1884.	Ditto.
„	XII	The Agriculturists' Loans Act, 1884.	The whole Act.
„	XVI	The Burma Gaming Act, 1884.	Ditto.
1885	XIII	The Indian Telegraph Act, 1885.	Ditto.
1886	II	The Indian Income-tax Act, 1886.	So much as is unrepealed.

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1886	VI	The Births, Deaths and Marriages Registration Act, 1886.	So much as is unrepealed.
"	XI	The Indian Tramways Act, 1886.	Ditto.
"	XII	The Petroleum Act, 1886 .	The whole Act.
"	XIII	The Indian Securities Act, 1886.	So much as is unrepealed.
1887	VII	The Suits Valuation Act, 1887.	Ditto.
"	IX	The Provincial Small Cause Courts Act, 1887.	Ditto.
"	XIII	The Electricity Act, 1887 .	The whole Act.
"	XIV	The Indian Marine Act, 1887.	Ditto.
"	XV	The Burma Military Police Act, 1887.	Ditto.
"	XX	The Wild Birds' Protection Act, 1887.	Ditto.
1888	III	The Police Act, 1888 .	Ditto.
"	V	The Inventions and Designs Act, 1888.	Ditto.
"	VIII	The Indian Tolls Act, 1888.	So much as is unrepealed.
"	XVIII	The Burma Financial Commissioners Act, 1888.	Ditto.
1889	I	The Metal Tokens Act, 1889.	Ditto.

(*The First Schedule.—Enactments declared in force in Upper Burma.*)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1889	II	The Measures of Length Act, 1889.	The whole Act.
„	IV	The Indian Merchandise Marks Act, 1889.	So much as is unrepealed.
„	VI	The Probate and Administration Act, 1889.	So much as is unrepealed, except section 21.
„	VII	The Succession Certificate Act, 1889.	The whole Act.
„	XI	The Lower Burma Courts Act, 1889.	Sections 46 and 47.
„	XII	The Cantonments Act, 1889.	So much as is unrepealed.
„	XV	The Indian Official Secrets Act, 1889.	The whole Act.
1890	I	The Revenue Recovery Act, 1890.	Ditto.
„	VI	The Charitable Endowments Act, 1890.	Ditto.
„	VIII	The Guardian and Wards Act, 1890.	Ditto.
„	IX	The Indian Railways Act, 1890.	So much as is unrepealed.
„	XI	The Prevention of Cruelty to Animals Act, 1890.	The whole Act.
„	XIII	The Excise (Malt Liquors) Act, 1890.	Section 9.
1891	XVIII	The Bankers' Books Evidence Act, 1891.	The whole Act.
1892	II	The Marriages Validation Act, 1892.	Ditto.

(The First Schedule.—Enactments declared in force in Upper Burma.)

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
1892	X	The Government Management of Private Estates Act, 1892.	The whole Act.
1893	IV	The Partition Act, 1893 .	Ditto.
"	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	Ditto.
1894	I	The Land Acquisition Act, 1894.	Ditto.
"	IX	The Prisons Act, 1894 .	Ditto.
1895	IX	The Extradition (India) Act, 1895.	Ditto.
"	X	The Indian Railway Companies Act, 1895.	Ditto.
"	XII	The Indian Companies (Memorandum of Association) Act, 1895.	Ditto.
"	XV	The Crown Grants Act, 1895.	Ditto.
"	XX	*Ex*-King Thebaw's Act, 1895.	Ditto.
1896	XII	The Excise Act, 1896 .	Ditto.
1897	III	The Epidemic Diseases Act, 1897.	Ditto.
"	VIII	The Reformatory Schools Act, 1897.	Ditto.
"	IX	The Provident Funds Act, 1897.	Ditto.
"	X	The General Clauses Act, 1897.	Ditto.

(The First Schedule.—Enactments declared in force in Upper Burma. The Second Schedule.—Addition to the Whipping Act, 1864.)

THE FIRST SCHEDULE—*concld.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*concld.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—concld.	
1897	XII	The Local Authorities' (Emergency) Loans Act, 1897.	The whole Act.
„	XIV	The Indian Short Titles Act, 1897.	Ditto.
1898	II	The Indian Paper Currency Act, 1898.	Ditto.
„	III	The Lepers Act, 1898	Ditto.
„	V	The Code of Criminal Procedure, 1898.	The whole Code (subject to the provisions of the Upper Burma Criminal Justice Regulation, 1892).
„	VI	The Indian Post Office Act, 1898.	The whole Act.
„	IX	The Live-stock Importation Act, 1898.	Ditto.

THE SECOND SCHEDULE.

[*See section 4, sub-section (3), clause (b).*]

ADDITION TO THE WHIPPING ACT, 1864.

Offenders punishable with whipping in certain other cases.

"6. (*1*) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the List of Offences annexed hereto or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, add to that List, shall be punishable with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(*2*) The

(The Second Schedule.—Addition to the Whipping Act, 1864.)

"(2) The Local Government may, by notification in the Burma Gazette, suspend the operation of this section, in whole or in part, in any district or part of a district, and, with the previous sanction of the Governor General in Council, by a like notification, remove the suspension of its operation.

"(3) This section shall be read subject to the provisions of section 393 of the Code of Criminal Procedure, 1898. V of 1898.

"THE LIST OF OFFENCES.

Section of Indian Penal Code.	Offence.
	Rioting armed with deadly weapon.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter a public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.

THE SECOND SCHEDULE—*concld.*

"THE LIST OF OFFENCES.

Section of Indian Penal Code.	Offence.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

THE THIRD

THE THIRD SCHEDULE.

(*See section 16.*)

AMENDMENTS.

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Acts of the Governor General in Council.	
1875	VII	The Burma Fisheries Act, 1875.	To section 2 *add*:— "fixed obstruction" includes a weir, lock, bank or dam, or any fixed engine which impedes navigation, interferes with the flow of water, or prevents fish from proceeding up or down stream: and "implement" includes any implement or engine for catching fish other than a fixed obstruction. In section 6, *for the first thirty words substitute* No fixed obstruction.
1876	II	The Burma Land and Revenue Act, 1876.	In section 55, in the second proviso, *for* Chief Commissioner, *substitute* Financial Commissioner.
1877	XIII	The Burma Embankment Act, 1877.	In section 7, clause (*a*), *after* charge *insert* or of which he is the owner.
1879	IX	The Burma Coast-lights Act, 1879.	In section 16, *for* on or before the first day of October in each year, publish *substitute* publish annually.
"	XV	The Rangoon Port Commissioners Act, 1879.	In section 1, *for the last sentence substitute* Nothing herein contained shall affect the powers conferred on the Local Government under the Indian Ports Act, 1889, section 36, sub-section (5).
1880	II	The Lower Burma District Cesses and Rural Police Act, 1880.	In section 1, *for the second proviso substitute* Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1898, extends. In section 9, *for the proviso substitute*:— Provided that the Local Government may at any time, for reasons to be recorded, transfer a sum of money from the accounts of any one district to the accounts of any other district.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Acts of the Governor General in Council—contd.	
1881	II	The Pegu and Sittang Canal Act, 1881.	In section 15, *for* Deputy Commissioners of Rangoon and Shwegyin, *substitute* Deputy Commissioner of Pegu; *and omit* in the said districts respectively.
,,	XIX	The Burma Forest Act, 1881.	In section 3, *after* Deputy Conservators, *insert* Extra Deputy Conservators, *and for* Sub-Assistant Conservators *substitute* Extra Assistant Conservators. In the heading to Chapter IV, *for* NATURAL PRODUCE *substitute* FOREST-PRODUCE. In section 37, *for* pasturage or of the natural produce, *substitute* forest-produce, *and in clauses* (*c*), (*g*) and (*h*), *for* natural produce, *wherever the words occur, substitute* forest-produce. In section 43, clauses (*g*) and (*h*), *for* stations, *wherever the word occurs, substitute* revenue-stations. In section 45, *for* station, *wherever the word occurs, substitute* revenue-station.
1882	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	In section 18, after clause (*a*) *insert*:— (*aa*) for delegating to Commissioners all or any of the powers conferred upon him by sections 3 and 9;.
1883	XXII	The Rangoon Tramways Act, 1883.	In section 2, *for the definition of "committee" substitute*:— "committee" means the committee for the town of Rangoon continued or appointed under the Burma Municipal Act, 1898.
1887	XV	The Burma Military Police Act, 1887.	In section 1, sub-section (*2*), *after* and *add* applies to every member of the Burma military police-force, wherever he may be; and.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part I.—Acts of the Governor General in Council—concld.			
1889	III	The Lower Burma Village Act, 1889.	In section 8, sub-section (*1*), *for* the first eight words *substitute* :— The headman of a village shall be bound to perform the following public duties, namely :— In section 6, sub-section (*2*), *for* duties *substitute* public duties. In section 8, *for* duties *substitute* public duties.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).			
1874	IX	The Arakan Hill District Laws Regulation, 1874.	*For* section 5 *substitute* :— 5. Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act, no license to manufacture, or deal in, arms or ammunition shall be granted without the express sanction of the Local Government. Operation of Act XI, 1878. In the first division (*Acts*) of the schedule, *omit* the entries in the fourth column relating to Act XXXVII of 1850, and to the division *add* :—

XIV of 1874	Scheduled Districts.	The whole Act, except section 10.
XV of 1874	Laws Local Extent.	The whole Act, except sections 4, 5, 6 and 7.
V of 1875	Unattested Sepoys.	The whole Act.
VII of 1875	Burma Fisheries.	The whole Act.
IX of 1876	Majority	The whole Act.
I of 1887	Amending Act XXXVII of 1850.	The whole Act.

LIBRARY OF THE BOMBAY

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1887	V	The Upper Burma Municipal Regulation, 1887.	In section 21, *after* any rule made under, *insert* section 6 or, *and for* that section *substitute* section 12.
„	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 2, sub-section (*2*), *for* Chindwin, *substitute* Upper Chindwin, *after* Bhamo *insert* Myitkyina, *and for* Yamethin and Pyinmana *substitute* and Yamethin.
„	XII	The Upper Burma Ruby Regulation, 1887.	In section 16, *for* Upper Burma Land Acquisition Regulation, IX of 1886, *substitute* Land Acquisition Act, 1894, *and for* that Regulation *substitute* that Act.
„	XIV	The Upper Burma Village Regulation, 1887.	In section 5, *for the first eight words substitute* :— The headman of a village shall be bound to perform the following public duties, namely :— In section 7, *for* duties *substitute* public duties. *After* section 14 *add* :— 14A. (*1*) Whoever holds a *pwè* in any village without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwè* held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Penalty for holding, promoting or taking part in, unlicensed pwès. (*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In section 86, sub-section (*1*), *for* shall ascertain *substitute* may ascertain.
1891	VI	The Upper Burma Towns Regulation, 1891.	*After* section 7 *add* :— 7A. (*1*) Whoever holds a *pwè* in any town without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwè* held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Penalty for holding, promoting or taking part in, unlicensed pwès. (*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In section 2, sub-section (*1*), *for* 1882 *substitute* 1898. In the second column of the table annexed to section 5 of the schedule, *for* To entertain cases without complaint, section 191, clause (*c*), *substitute* To take cognizance of any offence upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed, section 190, sub-section (*1*), clause (*c*) ; *for* To entertain complaints, section 191, *substitute* To take cognizance of an offence upon receiving a complaint of facts which constitute such offence, section 190, sub-section (*1*), clause (*a*) ; *and for* To receive police-reports, section 191, clause (*b*), *substitute* To take cognizance of an offence upon a

police-report

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1892	V—*contd.*		police-report of facts which constitute such offence, section 190, sub-section (*1*), clause (*b*). *After* section XIV of the schedule *add* :— XIVA. Notwithstanding anything in section 526, a Court of Session may,— Transfer of cases. (Section 526.) (1) if it is absolutely debarred by section 487 from trying any case committed to it, or by section 556 from hearing any appeal pending before it, direct that such case or appeal be transferred for trial or hearing to any other Criminal Court of equal jurisdiction ; (2) exercise as regards all Criminal Courts subordinate to its authority all the powers with respect to the transfer of criminal cases and appeals conferred upon the High Court by section 526 : Provided, first, that an application for the exercise of the power conferred by this section, if founded upon a report of the Judge or Magistrate before whom the case or appeal is pending, need not be supported by affidavit or affirmation : Provided, secondly, that the Court shall, before directing the transfer of a case or of an appeal under this section, issue a notice to the accused requiring him to show cause on a certain day, to be fixed in the notice, why the said case or appeal should not be transferred to some Court therein named or to such other Court of competent jurisdiction as might be determined :

THE THIRD SCHEDULE—*concld.*

AMENDMENTS—*concld.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—concld.			
1892	V—*concld.*		Provided, thirdly, that the High Court may, on the application of the accused or of the Public Prosecutor, reverse or vary any order made by a Court of Session under this section or substitute any other order in lieu thereof. In section XVI of the schedule, *for* 553, clause (*c*), *substitute* 554, sub-section (*2*), clause (*c*).
1896	I	The Upper Burma Civil Courts Regulation, 1896.	To section 12 *add* :— (*4*) The period of limitation for an appeal to the Divisional Court under clause (*b*) of sub-section (*3*) shall be sixty days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877. To section 13 *add* :— The period of limitation for an appeal to the Court of the Judicial Commissioner under this section shall be ninety days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.
Part III.—Regulation of the Bengal Code.			
1812	XI	The Bengal Foreign Immigrants Regulation, 1812.	In section 2, *for* he *substitute* it.

THE FOURTH SCHEDULE.

(*See section 17.*)

SHORT TITLES.

1	2	3	4
Year.	No.	Subject.	Short title.
		Acts of the Governor General in Council.	
1888	XVIII	To provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.	The Burma Financial Commissioner's Act, 1888.
1892	III	To amend the Rangoon Port Commissioners Act, 1879.	The Rangoon Port Commissioners Act (1879) Amendment Act, 1892.
1894	XI	To amend the Lower Burma Village Act, 1889.	The Lower Burma Village Act (1889) Amendment Act, 1894.
1895	XI	To remove certain doubts as to the validity of certain proceedings and acts of certain officers of the Pegu and Tenasserim Divisions in Lower Burma and to prevent their being raised in the future.	The Pegu and Tenasserim Validation Act, 1895.
,,	XVIII	To amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892.	The Lower Burma Villages and Towns Law Amendment Act, 1895.
		Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).	
1891	I	To amend the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, and the Upper Burma Village Regulation, 1887.	The Upper Burma Village Regulation (1887) Amendment Regulation, 1891.

THE FOURTH SCHEDULE—*contd.*

SHORT TITLES—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.	
1891	V	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891.
1892	II	To amend the Arakan Hills Civil Justice Regulation, 1874.	The Arakan Hills Civil Justice Regulation (1874) Amendment Regulation, 1892.
1894	III	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1894.
"	IV	To amend the Upper Burma Village Regulation, 1887.	The Upper Burma Village Regulation (1887) Amendment Regulation, 1894.
1895	II	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895.
1896	IV	To amend the Upper Burma Village Regulation, 1887, the Upper Burma Land and Revenue Regulation, 1889, and the Upper Burma Towns Regulation, 1891.	The Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896.
1897	I	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897.

THE FIFTH SCHEDULE.

(*See section 18.*)

REPEALS.

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council.	
1846	I	The Legal Practitioners Act, 1846.	The whole Act, in so far as it applies to Burma.
1853	XX	The Legal Practitioners Act, 1853.	The whole Act, in so far as it applies to Burma.
1854	XXVI	Making better provision for the education of male minors subject to the superintendence of the Court of Wards.	The whole Act, in so far as it applies to Burma.
1875	VII	The Burma Fisheries Act, 1875.	In section 2, *the word* and *where it occurs after the word* eggs. In section 7, *the words* or fixed engine *and the words* or engine *wherever they occur.* In section 8, clause (*e*), *the words* and engines.
1876	II	The Burma Land and Revenue Act, 1876.	In section 40, clause (*a*), *the words* prepare or, *the words* preparing or *and the words* cutch, beeswax, honey, lac, cardamoms and other forest-produce or. Section 61.
1879	XV	The Rangoon Port Commissioners Act, 1879.	Section 43. In section 56, the proviso. In section 67, *the word* new *in each of the places in which it occurs.*
1882	XX	The Indian Paper Currency Act, 1882.	In section 5, clause (*e*), section 7, clause (*b*), and section 17, *the word* British *wherever it occurs.*

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council—contd.	
1884	XVII	The Burma Municipal Act, 1884.	The whole Act.
1886	XX	The Upper Burma Laws Act, 1886.	The whole Act.
1887	XV	The Burma Military Police Act, 1887.	In section 1, sub-section (*2*), *the words* (inclusive of Upper Burma), except the Shan States.
1888	XV	The Shan States Act, 1888	The whole Act.
"	XVIII	The Burma Financial Commissioner's Act, 1888.	In section 1, sub-section (*1*), *the words* (inclusive of Upper Burma), except the Shan States. So much of section 7 and of the schedule as relates to Act XX of 1886.
"	XIX	Amending the Burma Municipal Act, 1884.	The whole Act.
1889	VI	The Probate and Administration Act, 1889.	In section 1, sub-section (*2*), *the words* (inclusive of Upper Burma), except the Shan States.
"	VII	The Succession Certificate Act, 1889.	In section 1, sub-section (*3*), *the words* (inclusive of Upper Burma), except the Shan States.
"	XI	The Lower Burma Courts Act, 1889.	So much of section 2 and of the first schedule as relates to Act XX of 1886. Section 4. So much of section 97 and of the second schedule as relates to Regulation IX of 1874. Sections 99, 100, 101, 102 and the third schedule.

(*The Fifth Schedule.—Repeals.*)

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council—contd.	
1889	XIII	The Cantonments Act, 1889.	In section 1, sub-section (*2*), *the words* inclusive of Upper Burma. So much of section 2 and of the schedule as relates to Act XX of 1886.
1890	I	The Revenue Recovery Act, 1890.	In section 1, sub-section (*2*), *the words* Upper Burma and.
„	VI	The Charitable Endowments Act, 1890.	In section 1, sub-section (*2*), *the words* Upper Burma and.
„	VIII	The Guardian and Wards Act, 1890.	In section 1, sub-section (*2*), *the words* Upper Burma and.
„	IX	The Indian Railways Act, 1890.	In section 1, sub-section (*2*), *the words* of Upper Burma, and. So much of section 2 and of the first schedule as relates to Act XX of 1886.
1891	XII	The Repealing and Amending Act, 1891.	So much of the first schedule as relates to Acts XVII of 1884 and XIX of 1888 and so much of the second schedule as relates to Acts XIX of 1881 and XVII of 1884.
„	XIX	The Upper Burma Laws Act Amendment Act, 1891.	The whole Act.
„	XXI	Amending the Lower Burma Municipal Act, 1884.	The whole Act.
1892	X	The Government Management of Private Estates Act, 1892.	In section 1, sub-section (*2*), *the words* Upper Burma and.
1894	IX	The Prisons Act, 1894	In section 1, sub-section (*2*), *the words* Upper Burma. So much of section 2 and of the schedule as relates to Act XX of 1886.

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council—contd.	
1894	XIV	Amending the Burma Municipal Act, 1884.	The whole Act.
1895	II	The Burma Boundaries Act Amendment Act, 1895.	In section 1, sub-section (*2*), *the words* except the Shan States.
,,	XXI	Amending the Upper Burma Laws Act, 1886, and the Shan States Act, 1888.	The whole Act.
1896	XII	The Excise Act, 1896	In section 1, sub-section (*2*), *the words* (inclusive of Upper Burma).
1897	III	The Epidemic Diseases Act, 1897.	In section 1, sub-section (*2*), *the words* Upper Burma.
,,	IX	The Provident Funds Act, 1897.	In section 1, sub-section (*2*), *the words* Upper Burma and.
1898	III	The Lepers Act, 1898	In section 1, sub-section (*2*), *the words* Upper Burma.
,,	VI	The Indian Post Office Act, 1898.	In section 1, sub-section (*2*), *the words* Upper Burma.
		Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).	
1874	IX	The Arakan Hill District Laws Regulation, 1874.	So much of the first division (*Acts*) of the schedule as relates to the Female Infanticide Prevention Act, 1870, and so much of the second division (*Bengal Regulations*) of the same as relates to the Bengal State Offences Regulation, 1804, and the Bengal Foreign Immigrants Regulation, 1812.
1887	V	The Upper Burma Municipal Regulation, 1887.	In section 3, sub-section (*1*), *the words* except the Shan States.

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1887	VI	The Upper Burma Forest Regulation, 1887.	In section 1, sub-section (2), *the words* except the Shan States.
"	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 1, sub-section (2), *the words* except the Shan States.
"	X	The Upper Burma Stamps and Limitation Regulation, 1887.	In the preamble, *the words* And whereas it is expedient to limit the amount of interest to be decreed in suits instituted while the law of limitation for the institution of suits is inoperative. In section 1, sub-section (2), *the words* except the Shan States.
"	XII	The Upper Burma Ruby Regulation, 1887.	In section 1, sub-section (2), *the words* except the Shan States.
"	XIV	The Upper Burma Village Regulation, 1887.	In section 1, sub-section (2), *the words* except the Shan States.
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In section 1, sub-section (2), *the words* except the Shan States.
1891	VI	The Upper Burma Towns Regulation, 1891.	In section 1, sub-section (2), *the words* except the Shan States.
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In section 2, sub-section (1), *the words* except the Shan States. In section 1 of the schedule, *the words* Local Government with the previous sanction of.
1895	V	Amending the Upper Burma Criminal Justice Regulation, 1892.	The whole Regulation.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	In section 1, sub-section (2), *the words* except the Shan States. Section 4.

(*The Fifth Schedule.—Repeals.*)

THE FIFTH SCHEDULE—*concld.*

REPEALS—*concld.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—concld.			
1896	VI	Amending the Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.
„	VII	Repealing the Upper Burma Land Acquisition Regulation, 1886.	The whole Regulation.
Part III.—Regulation of the Bengal Code.			
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	The whole Regulation, in so far as it applies to Burma.

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